



New South Wales Government
Independent Planning Commission

TRANSCRIPT OF PROCEEDINGS

RE: HELIPAD PENRITH LAKES (DA21/15298)

PENRITH CITY COUNCIL MEETING

COMMISSION PANEL: CHRIS WILSON (Chair)
 DR SHERIDAN COAKES

OFFICE OF THE IPC: CASEY JOSHUA
 COURTNEY COLEMAN

PENRITH CITY KATE SMITH
COUNCIL:

LOCATION: VIA VIDEO CONFERENCE

DATE: 1.00PM, MONDAY, 20 JUNE 2022

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MR WILSON: Before we begin I would like to acknowledge the traditional owners of the land from which we virtually meet today. Pay my respects to their Elder past, present and emerging. Welcome to the meeting today to discuss the Penrith Lakes Helipad DA Project currently before the Commission for determination. My name is Chris Wilson, I'm the Chair of the Commission Panel. I am joined by my fellow Commission Dr Sheridan Coakes. We're also joined by Casey Joshua and Courtney Coleman from the Office of the Independent Planning Commission. In the interest of openness and transparency and to ensure the full capture of information today's meeting is being recorded and a complete 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 sources of information upon which the Commission will base its determination. It is important for the Commission to ask questions of attendees and to clarify issues whenever it is considered appropriate. If you are asked a question and not in a position to answer please feel free to take it on notice and provide any additional information in writing which we will then put on our website. 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 to ensure accuracy of the transcript. We will now begin. Well, Kate, welcome.

MS SMITH: Thank you, Mr Chair.

MR WILSON: Thank you for taking your time out today. So I guess the way we want to - well, the way - we put forward an agenda and hopefully we just give you the opportunity to go through council's concerns and residual concerns that still remain following the submissions reported in the department's final recommendations and any comments you may have on the recommendations and draft recommended conditions of consent. So I guess I'll hand over to you to go through council's concerns.

MS SMITH: Thank you, Mr Chair, and thank you for the opportunity to discuss the submission. My name is Kate Smith, I am the Principal Planner for Penrith City Council and I've prepared the submission on this proposal on behalf of the council. We acknowledge that the Penrith Lakes is a significant site and it has a great vast range of potential in terms of tourism and recreation but we have a number of issues that require close consideration in relation to this development. The two that I am probably going to speak the most on today is in relation to the categorisation of the development, in relation to the master planning of the precinct and I will touch on some flooding considerations.

So I might begin with our submission on the categorisation of the development in terms of its permissibility. So the application states that they are a commercial operation, that the proponent is a commercial operator and essentially they will be, in the fullness of time, seeking a like-for-like facilities which is consistent with their Granville operations. It's noted that there is a current SEPP amendment for a heliport and that this application is for a helipad. In our submission we, the council, said that the department needed to be satisfied that the primary activities and the operations proposed in this application can be appropriately categorised as a helipad to ensure that the proposal is a permitted land use and doesn't presuppose the site for heliport operations which are currently not permitted.

In our submission we said that it might be useful for the department to understand the key differences between the current application and the existing operations at Granville, particularly because they are using the same environmental protection licence. So in reviewing the assessment report and the response to submissions documents, it hasn't fully described the differences between a heliport or a helipad as it relates to the proposal. The use of the facility, in my view, hasn't been described and its day-to-day primary activities haven't been included in sufficient detail to determine the categorisation of the development.

There's been a strong focus placed on whether the development is open to the public but this is not the only distinction between a helipad or a heliport. The definition of a helipad doesn't contemplate other facilities in the same way that a heliport does and so there seems to me to be a relationship to the scale contemplated by the different land uses which hasn't come up in the assessment of the application. For council the nature of the use is important in the categorisation of the development in relation to the two land uses. There seems to be significant discussion in the assessment report and the application broadly about the development being open to the public and, yet, the application hasn't identified how or through what mechanisms people or customers, clients are allowed to actually enter the site and on what basis.

If customers or clients, as they are described in the response to the submissions document, are invited to the facility, I'm not sure on which that invitation is made. To me this operation doesn't appear to be any different in nature, I suppose, to any other operation which is generally described as being open to the public for which you might purchase a ticket and sure, it's been identified that you cannot just walk into the facility but there is an exchange required and to me that doesn't preclude the facility from being open to the public. In the context of what I've raised, the department have recommended a conditionally consent, that's condition A6, and this to me doesn't clarify the nature of the scale of the operations and it doesn't actually resolve the

question surrounding permissibility or categorisation of the development. It also doesn't - I'm unclear as to how that condition might be enforced.

MR WILSON: Okay. That's a fair point. So just on permissibility. So at this stage council's yet to be convinced that they've characterised the proposal as a helipad?

MS SMITH: Correct.

10 MR WILSON: Okay. Can I just have a look at condition A6 while we're on it. Just got it in front of me here somewhere. A6, restrictions on use. All right. So basically the site's locked up, must be opened by the operator. So an invitation, I see what you're saying.

MS SMITH: It's not clear what that actually means and on what basis.

20 MR WILSON: I mean, is the distinction merely - it's a fair question. Is the distinction merely the difference between someone walking off the street and buying a ticket as opposed to someone booking online or talking to the operator and saying, can you take me up? I'm not quite sure. I mean, we haven't turned our mind completely to this, obviously we're still hearing submissions but, I mean - so what you're saying, notwithstanding the intensity of use they haven't described the differences enough to warrant permissibility?

MS SMITH: Yeah. I guess there's a subtle difference about being able to walk in or purchase a ticket but it's an important one in establishing permissibility in the same way, you know, for example, is the Harbour Bridge, you know - Harbour Bridge Climb open to the general public? I would say yes but you have to purchase a ticket, you can't just walk in off the street.

30 MR WILSON: Yes, but you can walk in off the street and purchase a ticket.

MS SMITH: You can but I don't think that that's the only determining factor about whether it's open to the public.

MR WILSON: No, it's a fair point. Okay. All right. We might seek clarification on that. So is that all in relation to characterisation?

MS SMITH: Yes.

40 MR WILSON: Okay. So then you want to talk about - - -

MS SMITH: The master planning.

MR WILSON: Master planning, yes.

MS SMITH: Yep.

MR WILSON: The DCP.

10 MS SMITH: Yeah. So our submission acknowledges that the DCP was adopted on the 15th of November last year, 2021, and applies to the development site and that the development site itself is located within the tourism south precinct. A master plan provides the strategic vision for an area. It's to guide a development. It doesn't discriminate as to whether an individual proposal is small or large in scale. The DCP was prepared by the department and the department set the requirement for master planning to occur within the various precincts of the Penrith Lakes scheme. This is, to my knowledge, the first application and first proposal in the precinct. So from my perspective it is unclear why the department would vary this requirement given the impacts of the proposal on the precinct will not be insignificant, particularly in relation to noise and pedestrian access and amenity.

20 The development itself, while the structures may not be large in scale, the operation occupies a large portion of land and the very nature of the use will limit the ability for other users within the broader precinct and so the master planning for this precinct should not be development-led which is actually in contrast to the requirements of the DCP and that this development might have adverse impacts to the broader precinct because of its nature and scale.

MR WILSON: So just on that, are there different precincts or just one precinct?

30 MS SMITH: There are different precincts within the Penrith Lakes Scheme.

MR WILSON: And does the DCP require a master plan to be prepared for each precinct?

MS SMITH: Yes, for each precinct.

MR WILSON: And this precinct is what, the tourism precinct?

40 MS SMITH: This precinct is the tourism south precinct.

MR WILSON: Right.

MS SMITH: There is a tourism west precinct, I think, as well.

MR WILSON: And this is the whole of the tourism south precinct or not, it's just part of?

MS SMITH: The site is part of but it forms a large part of that precinct.

10 MR WILSON: Right. Okay. So what you're saying is that at a minimum they should be doing DCP for tourism south precinct?

MS SMITH: At a minimum they should be doing their master planning exercise which the DCP (not transcribable)

MR WILSON: Sorry, master plan.

MS SMITH: Yes.

20 MR WILSON: Yes. But for that precinct?

MS SMITH: Yes.

MR WILSON: Tourism south precinct?

MS SMITH: Yes.

MR WILSON: And what per cent - I can do that, I can find that out. But this takes up the majority of the land?

30 MS SMITH: It does take up a substantial portion of the land.

MR WILSON: Okay. All right.

MS SMITH: And because of its configuration it would likely limit other uses within this direct vicinity.

MR WILSON: Okay. So in other words it will have an impact on other tourism - other potential tourism facilities - - -

40 MS SMITH: Yes.

MR WILSON: - - - on the remainder of the south precinct?

MS SMITH: Yes.

MR WILSON: That's the concern. Okay. All right. While you're on this, you've raised the issue about the Great River Walk.

MS SMITH: Connection. The linkage.

10 MR WILSON: Connection. The Great River Walk through Penrith Lakes site, where does that actually go?

MS SMITH: Well, there's a number of - council's prepared a green grid strategy which identifies a number of connections throughout the LGA, they're quite broad, they're not just in relation to the Great River Walk but there are linkages from Cranebrook down through this site which would connect into the Great River Walk. Primarily it runs along the Great River Walk, runs along the Nepean River and it goes from Hawkesbury further south.

20 MR WILSON: I mean, is that on public land or on private land or both?

MS SMITH: The connections are shown in the strategy across public and private lands.

MR WILSON: Right. And through this site?

MS SMITH: Yes.

30 MR WILSON: Through the actual site, not down the roadway but through the site?

MS SMITH: They show connections through the site.

DR COAKES: Do you know which part of the site, Kate, just out of interest?

MS SMITH: I can - - -

DR COAKES: Otherwise we can have a look but I just - - -

40 MS SMITH: I can provide you maybe a snapshot in an email if that makes it a little clearer after this meeting. I wasn't quite prepared with that document ready and available.

MR WILSON: That's okay. That's fine. It would be good if you could provide us with those potential links.

MS SMITH: Yep.

MR WILSON: So council's concerned is that development of this land or precinct south in general doesn't preclude those links?

10 MS SMITH: Yep. And I suppose going back to that comment on master planning those linkages we would anticipate would be acknowledged in any master planning and development where appropriate would maintain and steer clear of those links.

MR WILSON: Okay. Yes, so if you give us an email with a diagram of sorts so we understand where those potential links are.

MS SMITH: Yes.

MR WILSON: It would be good.

20

MS SMITH: Not a problem.

MR WILSON: So flooding. Hang on. There's a number of other issues you may want to talk to before we get to flooding. Contamination, is that one?

MS SMITH: Yes. For the purpose of today's meeting I don't have any comments in relation to those other matters, item C of our submission 1 and 2.

30 MR WILSON: Okay. So flooding, we move onto flooding. Do you want to go ahead in relation to flooding?

MS SMITH: Yep, that's fine. Council's advice was that the department needs to set the flood planning level and it is my understanding that the department is the one to set the level, not the applicant. The assessment report at paragraph 193 and 205 states that the development is above the flood planning level but what is the level? Has the department actually set the flood planning level and could this level be provided to council?

40 MR WILSON: Okay. Yes. Okay. That's a fair point. Okay.

MS SMITH: In relation to point 2, council requested that the New South Wales SES be satisfied that the development can be accommodated within the regional evacuation framework but we also questioned whether or not the SES has been consulted given the site is described as a hub of emergency services, particularly in bushfire and flood events. Whether this site is suitable for the intended nature of the operations is unclear in the absence of any advice from the SES on that matter, particularly when considering broader flooding within the locality. Evacuation is one aspect but whether the site is actually suitable for these emergency services to operate out of is another aspect. I couldn't locate any comments from the SES in the assessment report so I'm
10 unclear about whether or not or what their views are on that matter.

MR WILSON: Okay. I thought there was a submission from SES but I'll have to look at that and take that one on board as well. All right. Do you want to go on to noise, Kate?

MS SMITH: Yes. Yep. So council's experts haven't had the time to fully consider the final assessment in relation to noise but we note that an expert has been engaged as requested in our submission to the department and we note that there's significant public concerns relating to this aspect which needs to be addressed more broadly. For
20 the purpose of today I don't have any further comments in relation to this aspect at this time but we haven't precluded making any representations in a public meeting should we choose to at that time.

MR WILSON: So Rob Bullen did address the panel this morning and he was the appointed expert by the department and, yes, so he was part of the department's submission to us this morning. Okay. Then that comes then down to contamination.

DR CAOKES: Just a quick one, Chris.

30 MR WILSON: Sorry, Sheri.

DR COAKES: No, no, all good. Kate just a quick question. Has noise - helicopter noise been an issue previously? Is council aware of community complaints around helicopter noise? We note that there's a number of submissions from residents in Cranebrook?

MS SMITH: Not to my knowledge but I am not aware of any other facilities like this within our local government area. The only other helipad facilities that I'm aware of relate to the Nepean Hospital site, for example, and I think there might've been
40 temporary facilities on the university lands but they weren't - they obviously don't

have a frequency of flights that's anticipated by this proposal and so there is nothing to my knowledge that's similar in our LGA to this proposal.

DR COAKES: Okay. Thank you.

MR WILSON: So the last point in your submission was contamination, Kate?

MS SMITH: Yes. I haven't reviewed the conditions in relation to that aspect as recommended by the department but I don't anticipate that there are any further
10 comments and that it would be suitably captured.

MR WILSON: Are you aware of any - I mean, there seems to be - there was a proposal to put some petrol tanks in but no one seems to be - understand whether it was done or not. There's no records of it, those tanks having been constructed in ground.

MS SMITH: Yeah. I'm not aware either and I suppose that this would just be precautionary and so could be covered by conditions of consent but as I said, I haven't reviewed those in relation to this particular aspect.
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MR WILSON: Yes. Okay. All right. Sheri?

DR COAKES: No, all good.

MR WILSON: Okay. So that's your submission, I guess, Kate, and we'll take those matters on board. So notwithstanding those matters that you've raised, are there any other residual issues that council has?

MS SMITH: No, I have no additional comments on the assessment report or on the
30 recommended conditions at this time.

MR WILSON: Okay. All right. So look, I think that's - I don't have any further questions and I appreciate those - so basically what council's saying is you don't think these issues have been addressed and they remain residual and that's council's position?

MS SMITH: Yep, that's correct.

MR WILSON: Okay. Well, we appreciate that.
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MS JOSHUA: Chris, do you mind if I just jump in on a couple of matters?

MR WILSON: Sure.

MS JOSHUA: Thank you. Kate, I think - just back to the flood planning level, we did raise that with the department this morning and they mentioned that the flood planning level for this is set in the SEPP, the Western Parklands SEPP and that's what the department have taken as the flood planning level and are satisfied that all parts of the development are above that. Is that something - - -

10 MS SMITH: And so I suppose that's correct in that the SEPP requires them to set the flood planning level but council doesn't know what the actual level is and it hasn't been included in the assessment report and so how can you determine that an application is above the flood planning level if it's not clear or it hasn't been described anywhere what that level is?

MR WILSON: So what Casey's saying is - what you're saying, Casey, is that it is in the SEPP or it isn't in the SEPP?

MS JOSHUA: Yeah, so the department's response was that the level is in the SEPP.

20

MS SMITH: And what is that level? Sorry, could you point me to that?

MR WILSON: We are in the process of reviewing the information.

MS SMITH: Okay.

MS JOSHUA: I'm just asking for Council's response to the department's assertion.

MS SMITH: Okay. Well, I'm not aware of the level itself being in the SEPP and so I
30 would take that on notice and I will have a look.

MR WILSON: Well, we have to have a look as well.

MS JOSHUA: Yes, we'll have a look as well.

MR WILSON: We'll confirm it as well and obviously they've answered the question, we need to confirm that. So we're going back to the department with some questions and we'll look at the SEPP and if it's not there we'll ask them how they set the level.

40 MS SMITH: Yep.

MS JOSHUA: And the other thing I just wanted to ask about the SES consultation. The department have responded to that recommendation by implementing a condition requiring the applicant to develop a flood evacuation plan in consultation with the SES and Transport for New South Wales. Does that satisfy - - -

MR WILSON: No, I think what Kate - - -

MS JOSHUA: - - - what was raised by council?

10 MR WILSON: Kate said that's one aspect.

MS SMITH: Yeah.

MR WILSON: One aspect. I think what Kate's saying is has the SES signed off on this site as appropriate. Isn't that what you're saying, Kate?

MS SMITH: That's right. Is the site actually - so evacuation is one aspect, can the people that are there be evacuated out. My question is are the SES satisfied that this site is suitable for the nature of the operations which says that they're in a hub for emergency services. So in a flood event is this an appropriate site to be operating out of.

MR WILSON: Okay. That's all right, we'll follow that up. There's submissions from a whole range of government agencies, I haven't looked at them all yet but I'm pretty certain there's one there from the SES.

MS JOSHUA: There's one from the New South Wales Rural Fire Service. I haven't found one from the SES but we will look into it.

30 MR WILSON: Okay. We'll follow that up, Kate, that's a good point.

MS SMITH: Thank you.

MR WILSON: All right. Is there anything else, Sheri?

DR COAKES: No, no.

MR WILSON: Okay. All right. Thank you very much, Kate, we really appreciate your time - taking time out to talk to us today.

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MS SMITH: Thank you. And who - will I provide the email to you, Casey?

MR WILSON: Yes, please.

MS JOSHUA: Yes, please.

MS SMITH: Yep,. Okay. No worries. I'll do that shortly.

MR WILSON: Thank you very much.

10 MS JOSHUA: Thank you.

MS SMITH: Thank you.

MR WILSON: Bye.

MEETING CONCLUDED