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TRANSCRIPT OF PROCEEDINGS

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INDEPENDENT PLANNING COMMISSION

MEETING WITH DEPARTMENT OF PLANNING, INDUSTRY AND ENVIRONMENT

RE: RANDWICK COMPREHENSIVE PLANNING PROPOSAL – GATEWAY DETERMINATION REVIEW

PANEL: **PETER WILLIAMS (CHAIR)**
ADRIAN PILTON

ASSISTING PANEL: **STEPHEN BARRY**
PHOEBE JARVIS
HELEN MULCAHY

DEPARTMENT OF PLANNING, INDUSTRY AND ENVIRONMENT: **MALCOLM McDONALD**
LAURA LOCKE
SIMON IP
WAYNE WILLIAMSON
DANIEL STACE
LAWREN DRUMMOND

LOCATION: **VIA VIDEO CONFERENCE**

DATE: **9.33 AM, FRIDAY, 28 JANUARY 2022**

DR WILLIAMS: Good morning and welcome. Before we begin, I would like to acknowledge the traditional owners of the land on which we virtually meet today and pay my respects to their elders, past, present, and emerging. Welcome to the meeting today to discuss the Randwick Comprehensive Planning Proposal Gateway
5 Determination Review, reference numbers GR202112 and PP20214267, currently before the commission. The planning proposal is for a comprehensive review of the Randwick Local Environmental Plan. Relevant to the gateway review request, the planning proposal sought to firstly introduce a new exempt development provision in the LEP to limit the number of days that non-hosted short-term residential
10 accommodation can operate in a calendar year to a maximum of 90 days.

Secondly, to introduce the local character overlay to the LEP, inclusive of clause, mapping, and definition, to give effect to three local character areas, being the bays, northern coast, southern coast. And thirdly, rezone the site at 1903R Botany Road,
15 Matraville from RE1, public recreation, to RE2, private recreation, in response to a landowner request. My name is Peter Williams. I am the chair of this commission panel. I'm joined by my fellow commissioner, Adrian Pilton. We're also joined by Stephen Barry and Phoebe Jarvis from the Office of the Independent Planning Commission, and Helen Mulcahy, who is assisting the commission. In the interest of
20 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
25 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 to 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
30 website. I request that all members here today introduce themselves before speaking for the first time, and for all members to ensure that they do not speak over the top of each other to ensure the accuracy of our transcript. So thank you. We will now begin. And first of all, if I can ask Malcolm and your colleagues from the department just to introduce yourselves, particularly for the purposes of the
35 transcript, please.

MR McDONALD: Thank you, Peter. Good morning. My name is Malcolm McDonald. I'm the executive director of the Eastern Harbour City at the Department
40 of Planning.

MS LOCKE: Good morning, everyone. I'm Laura Locke. I'm the director of Eastern and South Districts at Department of Planning.

MR IP: Hello, everyone. My name is Simon Ip, manager, Place and Infrastructure
45 at the Department of Planning.

MR WILLIAMSON: Hi, all. I'm Wayne Williamson, team leader, Housing Policy at the Department of Planning.

5 MR STACE: Morning, everyone. I'm Daniel Stace, currently the acting senior manager of Open Space Planning and Projects at the Department of Planning.

MS DRUMMOND: Good morning, everyone. My name is Lawren Drummond. I'm an acting senior planning officer at Eastern and South Districts team at the Department of Planning.

10 DR WILLIAMS: All right. Thank you very much, everyone, and welcome to you all joining us this morning. Malcolm, I'm not sure who will be beginning the presentation, but what I propose is any open remarks you or any of your colleagues might have, and presumably you would like to run through the presentation, so I will
15 let you begin – the department begin with any opening remarks, and then I guess through the presentation for us. We might have some questions during the course of your presentation, but wherever possible we will try and leave our questions till the end of the presentation. But there will be no doubt some additional questions, or even points of clarification we might want to ask in the middle of the presentation.
20 So we don't mean to interrupt, but that might be the best time to get points of clarification. So thank you, Malcolm. I will hand it over to you, please.

MR McDONALD: All right. Thank you, Peter, and good morning. And good morning, commissioners, and thanks for the opportunity to come before you this
25 morning. We have quite a number of people here represented from the department, and we have people from our planning teams who have been responsible for the assessment of the gateway determination, as well as people from our policy teams, both in relation to open space and housing policy. So we are all available to answer questions through the discussion.

30 We have a presentation which has been crafted in relation to setting out a synopsis of the planning proposal, and then each of the three issues that are the subject of the gateway review, and we've sought to intertwine questions that have been submitted by the commission. So if it's okay, we can talk through that presentation as a
35 flowing dialogue. And as you mentioned, Peter, happy to take questions and commentary through the process. And the presentation itself we've sent through already, which is available – which we're happy to be made publicly available. I will bring up now the presentation itself. Can everybody see that?

40 DR WILLIAMS: Yes.

MR McDONALD: Thank you. So this is a recap of the agenda, just to confirm that. We will now step through the issues that have been raised by Randwick Council. And so firstly, I would just like to give an overview of the planning proposal itself,
45 just shortly. The gateway request that was lodged by Randwick Council reflects years of strategic policy work by council, and the planning proposal is a comprehensive review of the Randwick LEP 2012. And it seeks to implement a

number of actions and strategies from both state policies as well as council's own local strategies and studies, and for the outcome of those bodies of work to be represented and implemented through council's statutory plans in its LEP.

5 Relevantly, but not exclusively, some of those policies include the Eastern City District plan objectives, council's local strategic planning statement, and specifically some of council's local strategies and studies, which includes its recently endorsed local housing strategy, environmental strategy, and also a draft open space and recreation needs study, which is relevant in relation to one of the matters that have
10 been identified by council for review. So the purpose of the planning proposal is really to update council's controls. This includes in relation to matters such as enforcing more stringent sustainability measures, whether that's in water management or biodiversity, urban heat island effect and the like, to allow for housing and employment growth, and there's a number of centres that have been
15 identified for growth to update council's local heritage conservation plan area. And also, too, importantly, council consolidated a number of specific landowner requests for changes to development controls on individual parcels.

20 So by doing so, the planning proposal seeks to overcome the propensity for individual spot re-zonings. And there is around about a thousand or so dwellings that have been identified for growth in targeted areas in the LEP. Quite a significant body of work in the department's assessment report steps through the level of analysis that council undertook, and there are a number of gateway conditions that were imposed by the department. There's nine conditions, and a number of those
25 have various subsets of matters. And it's really in relation to three of those subsets only that council has sought the IPCs request for review of those gateway conditions, and they, as Peter has mentioned, relate to the recently introduced state-wide policy for short-term rental housing accommodation.

30 Council sought a provision to limit the operation of short-term rental housing accommodation within the Randwick LGA for 90 days – a maximum of 90 days a year. The state-wide policy allows 180 day cap. The second issue relates to work council had undertaken to implement a series of local provisions that would be matters for consideration at the development application stage in relation to local
35 character areas, and that's in response to some draft policy work that the department had been circulating. The third issue the subject of the gateway review is relating to a proposal to change the land use zone controls for one site in Matraville from public open space to private recreation space. And those three matters were reflected in three conditions of the gateway determination itself, where the department's
40 determination directed the council to remove those aspects of the planning proposal prior to exhibition.

45 So we really have taken considerable thought and analysis following the department's determination and carefully considered council's submission that was lodged, and sought further advice from our policy and our planning teams to consider the matters that have been raised. And we will step through the rationale and the thinking behind each of those matters in turn. The recommendation of the

Department of Planning remains that, in its view, the three gateway determination conditions in question should remain unchanged. And we will step through that and take any commentary as we go.

5 So if it's okay, I will turn now to the first issue raised by council, which is in relation to the short-term rental accommodation policy. And this slide provides a snapshot of essentially the difference between the two issues in – between the policy and council's position. And for state policy which – it was commenced in November
10 2021 – limits the operation of non-hosted short-term rental accommodation to a maximum of 180 days per year. Essentially, people who have a dwelling may use a platform like Airbnb to rent out their property, and this state-wide policy enables that to occur, but caps it at 180 days. And the council provision sought to introduce a control within the LEP that, for the Randwick LGA only, would be limited to a maximum of 90 days.

15 (2) Before we go into the thinking behind the 180 days and an analysis of council's position, I thought I would just recap on the extent to which this policy was developed and the extent of community engagement and policy thinking behind it. It has been quite a long-running policy, and the slide that's up at the moment provides
20 a snapshot of the four different times at which there was public engagement through the development of the policy. It first stemmed from a parliamentary inquiry at the end of 2015, which I think was generated from concerns through the Byron Shire, where there was this rising propensity of private house letting, and there was concerns around public amenity and impacts on the character of local areas.

25 There was also concerns around the potential impact for short-term rental accommodation on the overall long-term rental housing demand and needs for an area. So the outcome of that parliamentary inquiry led the Department of Planning in 2017 to exhibit an options paper to seek some feedback on some of the
30 considerations that came out of that inquiry and some of the options that were potentially being considered. Off the back of that, in 2018, the department exhibited essentially an explanation of some proposed controls, some proposed state-wide policy controls that would be introduced. And then in 2019, the department then exhibited a supporting regulatory framework in relation to that short-term rental
35 housing policy.

And that's significant – we will talk to that in a moment – because there is quite a supporting regulatory and data monitoring regime that accompanies this. The
40 outcome of all of that work – which I guess, looking at the timeline, demonstrates that it has been quite a contentious issue within the community, there was a lot of policy thought by government – led to the introduction in November 2021, the commencement of that policy, which was incorporated in a new housing SEPP, a state-wide housing SEPP. It applies for metro councils a 180-day cap for the opportunity for short-term rental housing. But what's important, too, to
45 acknowledge is the supporting, monitoring, and compliance regime that has been established.

- There is a code of conduct which hosts of short-term housing need to comply with. There is a register, so that information is collected. And there's an online booking platform. And the combined effect of these initiatives means that there is quite a rich data source that is going to be collected in real time to monitor the potential impacts
- 5 of this new policy, particularly in relation to concerns that have been raised by stakeholders, as well as Randwick Council in its submission, of concerns around noise and amenity, compliance issues, as well as potential detrimental economic impacts for the rental housing market.
- 10 So this support regulatory framework provides that evidence base and that data analysis to inform a commitment by the department to undertake a wholesale review of that policy after two years of operation, and it's that evidence base that will be a key input to determining the success or otherwise and the extent to which any change to those provisions may be required. So the department acknowledges, I think, that
- 15 with such a significant policy like this, there is a need for a wholesale series of data behind it to inform future decision-making. And that has been an important part of the department's consideration. It is a state-wide policy. It has been introduced through a state environmental planning policy.
- 20 In the hierarchy of environmental planning instruments in New South Wales, state environment planning policies override any inconsistency with any other environmental planning instruments. Council has sought to introduce a local provision in its local environmental plan to essentially halve that cap of 180 days. As we look at the submission put forward by Randwick Council in support of that
- 25 provision, it's worth acknowledging that council's local planning panel, which plays a role in providing an assessment and an advice function to council prior to the council resolution of the planning proposal to proceed to gateway, it is made up of independent members, and the local planning panel itself acknowledged that there was a need to undertake a period of monitoring to inform a detailed position by
- 30 council, and that as it stood, it was felt that the position by council to adopt a 90-day cap lacked sufficient evidence at this stage to support that provision. But that's not to say that it may not be appropriate at a later stage.
- And the department's analysis to inform today's briefing is really aligned with that
- 35 position, in that we didn't see in council's submission any supporting economic analysis, for example, to address council's submission that there would be detrimental impacts on the long-term rental housing market in the LGA. We didn't see any social impact analysis to support its position that a 90-day cap would be required to circumvent concerns around amenity and noise impacts on the
- 40 community. And we didn't see any compliance analysis data to support its position that the cost and the burden to council's compliance teams to enforce, you know, good public order and just the safe operation of rental housing was such a burden that it would warrant the reduced 90-day cap.
- 45 So in light of that, the department, I think, acknowledging that it is a state-wide policy, it has really only just begun over the beginning of the summer. It's too early, we would argue, to introduce a piecemeal exclusion from this state policy. The

short-term rental housing market is a really – it's a significantly growing sector of the tourism industry in the state, and the policy position that's quite a considered policy reflects this important aspect of the tourism market, but also providing a really important, rich data source to assess the impacts of that and the opportunity to come
5 back and revisit the merits of that position. If we were to allow for a one-off council exclusion, it would open the door for other councils in the absence of supporting analysis, both economic and social impact, to seek other exemptions.

Now, that may be warranted, but we would say it's premature now for that purpose.
10 We have had some early discussions with the City of Sydney in relation to one of the questions that the commission had asked, had there been other councils that had sought to seek an exemption. There's no planning proposal that has been generated by the city. It really is very early days, and we have stepped through the type of, you know, justification and supporting analysis that we would say is appropriate. And
15 it's a matter for the city, I think, to consider whether they would seek to generate that data.

The policy and the data framework that has been supported through the planning portal to collect all of these registrations and the like is an open data source. It's
20 freely available to councils. So we see that as a really important element of transparency to share this real-time information. So in conclusion, in relation to that policy, the department maintains its position that we think a one-off exclusion is premature at the time being. I just pause there, if the commissioners have any questions or any discussions in relation to that issue.

25 MR PILTON: Questions from me?

DR WILLIAMS: Yes, Adrian.

30 MR PILTON: Nothing from me, Peter.

DR WILLIAMS: Thanks, Adrian. Thanks for that so far, Malcolm. I presume the 80-day limit that's contained in the SEPP is reflective of that lengthy process of inquiry, first the inquiry, then the consultation process that the department – was
35 undertaken – that has been undertaken by the department.

MR McDONALD: That's right. And that was – that was some of the recommendations that came out of the analysis in support of the policy position that a 180-day cap was seen as an appropriate maximum timeframe that was considered,
40 you know, a reasonable balance.

DR WILLIAMS: Right. Thanks. And just my second question: an exclusionary exemption from the 180-day limit would be the only avenue available. Otherwise you've got that messy situation, I guess, of an inconsistency between the instruments,
45 and in which case the 90-day provision and the LEP would have no effect anyway, being overridden by the SEPP. So the only way it would work would be for Randwick Council to specifically be given an exemption.

MR McDONALD: That's right, yes.

DR WILLIAMS: That's right? Okay. Yes, okay. No, thanks, Malcolm.

5 MR McDONALD: And I might just pause there and just see if, particularly Wayne Williamson, if there's anything that you wanted to add to the conversation, Wayne, because I know this is your sort of policy areas of expertise.

10 MR WILLIAMSON: Yes. No, I think you've covered it quite well. I think, yes, the key point is it's a very new policy. We're collecting a lot of data through the STRA premises register that the department is holding and giving councils full access to. So the policy has been built on a lot of analysis, but the true data that reflects what actually happens out there is not clear, and that's our full intent, is to collect that data and get a much clearer picture of how many houses are being used
15 for short-term rentals, and with a full review in two years' time.

MR McDONALD: Thanks, Wayne.

20 DR WILLIAMS: Thanks, Wayne. And, sorry, Malcolm, just one other question. That provision is a state-wide provision. It covers not just metropolitan councils, but all local government areas in New South Wales?

25 MR WILLIAMSON: Yes, I will cover that. So essentially, so there's two things. So there's hosted and there's non-hosted, what we call STRA, short-term rentals. So hosted is where you're renting your back room or a secondary dwelling at the back of your lot. You're there on the premises at all times, so we call it hosted. So you can sort of go out the back and say, "Turn the music down," at midnight. There's no caps on that, so you can do that 365 days a year. Non-hosted is where you're renting out a whole dwelling. Apartment, house, whatever it may be.

30 That's where the 180-day cap comes in. 180 days is based on basically all weekends and all school holidays for a calendar year, and it is really trying to – it's striking a balance, as Malcolm said, between allowing the industry to operate, but also not impact the amenity of neighbours and the local community. So it's a balance that is struck for the policy. The 180 days only applies to Sydney. It's mandatory for Sydney and the Blue Mountains. All the other councils in the state, the regional councils, can opt in to the 180 days. The ones that have is Ballina, Byron Bay, and parts of Muswellbrook and Clarence Valley, around the Hunter Valley. The rest have opted to just leave it at 365 days. But it does cover the whole state.

40 MR McDONALD: Thanks, Wayne. That's good clarification. Thank you. If it's okay, then, we will turn to the second aspect of the council's gateway review request, and that relates to the gateway determination condition to remove reference to a proposed local character provision. And just to provide some context to this
45 provision and the policy behind it, unlike the short-term rental housing accommodation policy, which has recently been introduced through a state-wide policy and has now commenced, the policy position in relation to local character is a

draft policy, and there has been – similar to short-term rental accommodation, there has been a series of discussion papers and explanation of potential changes to the statutory framework to implement that policy, but it remains a draft policy, and I will step through that in a bit more detail.

5

And I think that's a key point of distinction here, that this is a draft position and the department is still working through whether the implementation of local character through a state-wide framework would be supported. And that to an extent is the key point of difference between the department and Randwick Council, which I will talk through. So in terms of some context, in 2018 the department issued a planning circular, which really talked to and introduced this idea of local character in the planning system, acknowledging at that point the significant amount of particularly urban infill renewal. High-density growth was seen part by some parts of the community as really undermining the integrity of the existing fabric of a local area.

15

And off the back of that, the department issued another guideline and discussion paper to introduce a concept around the ability for a council to provide and undertake a whole series of strategic analysis to contextualise and explain what the existing and desired future character of an area should be, and for that to then be a matter of consideration when a development application is lodged. So it would provide an overlay in extent, which would be a trigger at the DA assessment stage to have regard to how a community and their council describes the intended local character of a particular area to then enable an assessment of that proposal against that desired character.

25

Off the back of the discussion paper, in November 2020 the department exhibited a draft local clause, and what would be the introduction of a state-wide policy to introduce local character. And in good faith, Randwick Council, as some other metropolitan councils have done, really undertook a couple of years of quite detailed work to develop specific provisions to support implementation of that policy while it was progressing through the draft stages within the government. Council has prepared a local clause. It has mapped particular areas which it says is quite significant, and they're mostly within the scenic foreshore protection areas, and there's three in particular that are the subject of this gateway review.

35

And there's quite a detailed supporting statements to describe what that character of those areas is and what makes them so unique. And through council's planning proposal, it is sought to introduce a local clause that would be that statutory trigger for a consideration at the development application stage. The challenge that the department has faced is that as the discussion paper and the potential draft, statutory controls were exhibited. There was far more conjecture than had been anticipated on the merits of introducing this policy. And the approach within the department since the exhibition of that work has largely been superseded by what has now become the draft design and place SEPP, which is an overarching framework to introduce best practice design controls for the built environment.

45

And what we have been left with is a draft policy of the department that is largely in obedience. And while it remains a draft framework, it has yet to be implemented through the statutory provisions, and the department doesn't have a level of assurance that the government will take that final step and introduce a state-wide policy, which is the corollary of what has occurred with the state short-term rental housing accommodation approach. So in good faith, Randwick Council has done all of that work to support an emerging draft policy in anticipation of it being implemented. And there's a level of uncertainty and likelihood that that state-wide local character provision won't be introduced in a SEPP by the Department of Planning.

And as a result of that, the gateway determination condition sought to remove that provision for the basis that we as a department didn't have confidence that at the time of the making of council's LEP, that that policy would have been introduced. In the absence of that state-wide policy, there would be no strategic justification for the introduction of council's local character provisions. Council has, in its submission to the commission, has pointed out the fact that the department has really relied upon that lack of state-wide policy without going into the merits of council's local character work.

And look, we acknowledge that that's a valid argument, that there is a lot of good work that has been done by council in relation to its local character, and a lot of community consultation, and a lot of energy has been invested. And we have sought to think of creative ways in which council can still give effect to all of that work without that final trigger, which is a statutory link in its LEP to that local character work. We think it can be done in two ways: firstly, the adoption of council's local character analysis in the supporting development control plan, which is – it's not a statutory document, but it is a matter for consideration at the development application stage and provides for more detail in relation to built form considerations than you would expect within an LEP.

That would still be a matter for consideration at the development application stage or the development proposal stage to enable to turn its mind and to require proponents to have regard to the desired future local character of an area. What it would lack and what the council would be frustrated by is that mandatory statutory consideration, that link within the LEP. And I guess we would argue that in the absence of a state-wide policy, there's no strategic grounds or basis for the inclusion of that link within the LEP itself. So the difference is that we're recommending that there is not a local provision within the instrument.

And the other matter that has taken shape since the preparation of council's plan proposal is the recent and current exhibition of the draft design and place SEPP, which is a really comprehensive package of work that introduces a series of references to best practice design principles that has regard to matters of consideration for an area's local character. And while the design and place SEPP is also in draft, if it were to be introduced as it has been exhibited, there would be a mandatory matter for consideration to have regard to best practice design principles,

which in turn reference an area's local character. So we still see that there's an argument to be made that there would be consideration for the local character.

5 So in the absence of a state-wide policy, in the absence of certainty by government that that local character provision will be introduced, we didn't have confidence that the gateway – that the council's plan proposal could proceed through public exhibition, through council's finalisation, and potentially create an expectation within the community and within council itself that the department would support that provision, because we don't have confidence at the very end that that state-wide
10 policy at that time would have been introduced. It's incredibly frustrating for council, and we acknowledge that. They've developed this work in good faith. And we would say that there's still an opportunity for that work to be reflected in council's supporting policy documents. So I will pause there, and, Peter, Adrian, if you have any commentary around that issue.

15

DR WILLIAMS: Any comments or questions, Adrian?

MR PILTON: No, I think that's pretty clear. Thank you.

20 DR WILLIAMS: Just a point of clarification, sorry, Malcolm, if I may. So basically, the two statutory pathways that could be taken, if I understand this right, would be, you know, that the standard instrument overlay, which was being considered as a possibility by the department; and the second one is this – the alternate would be the draft design and place SEPP. Either of those pathways would
25 give, you know, that higher mandatory statutory recognition of local character and design elements and place-based elements in the development assessment process. So they're alternatives, one or the other.

30 In terms of what council could do at this stage, given that if the standard instrument overlay pathway is not being proceeded, it's either to include it in the DCP or wait until the – if the draft design and place SEPP is in fact introduced. Either way, you're suggesting that that could be the way in which council could do it. Indeed, it could possibly be both, I would hazard a guess, because they could – if the design and place SEPP is introduced, there's also nothing stopping council from also
35 incorporating further provisions in their DCP. Is that a correct synopsis?

MR McDONALD: That's my understanding as well, Peter.

40 DR WILLIAMS: Yes.

MR McDONALD: And it was the intention of council to incorporate quite lengthy local character statements. It has a series of diagrams and commentary around the character of those three areas. They were always intended to sit in council's development control plan.

45

DR WILLIAMS: Right. Okay.

MR McDONALD: It's really any other of that supporting information. The overlay maps and matters that would be a matter to consider at the development application stage - - -

5 DR WILLIAMS: Right.

MR McDONALD: - - - could also sit within the DCP.

10 DR WILLIAMS: Right, right. I mean, I think we're aware of some councils in Sydney that have used locality statements and local planning or local area planning in the DCPs. And indeed, you know, a council like Warringah Council in their 2000 LEP was heavily predicated on locality statements and place-based zoning or planning, John Mant model. But with the advent of the standard instrument, it would require an adoption by the standard instrument for that to happen again; is that your
15 understanding as well?

MR McDONALD: That's right. Yes. That's exactly right. So the draft policy work was to enable that sort of bespoke local character analysis. It has always been a matter for consideration of work done by councils, and it would give it statutory
20 weight through the standard instrument.

DR WILLIAMS: Right, right. Okay.

MR McDONALD: But I think there has been a movement away from bringing that
25 into the LEP and for it to remain within the councils supporting DCPs.

DR WILLIAMS: Okay.

MR McDONALD: I might just open to Laura Locke, who is the director of East
30 and South District. Laura, if you had anything you wanted to add.

MS LOCKE: No, I don't think so, Malcolm. I think you've - I think you've covered it - covered it pretty well. As you've said, it's more around the uncertainty
35 at this time.

DR WILLIAMS: All right. Thanks.

MR McDONALD: Okay. So we will turn to the third issue, the subject of council's gateway review. And this relates to a proposal in the planning proposal to change
40 the land use zone for one site in Matraville that's currently zoned RE1, public recreation. And the proposal is to change the zoning of that site to RE2, private recreation. And the department will step through the thinking around why that gateway condition has been introduced and some of the rationale that council had sought for that change of zoning. So just to get some context on where the site is, it
45 really adjoins - it's this buffer site, essentially, in blue next to Botany Road. And to the south directly is the Port Botany facility and all of their quite heavy industrial land uses. And to the north is low-rise residential development. And the area

immediately to the east is publicly owned RE1 open space which includes a local creek corridor called Bunnerong Creek. That area is around a hectare, 10,000 square metres. And the area in blue is privately owned. It's around three and a half thousand square metres or so. The site has been identified. It is currently identified, I should say, in council's Randwick LEP. It's identified on the land reservation acquisition map, which is a requirement when a site is owned for public recreation uses, that there is a requirement for a relevant acquisition authority to be identified to acquire that site. And Randwick Council is currently identified as the acquisition authority for that site.

The proposal is to change the zoning of that to be private recreation or land, and the commissioner has asked some questions about the differences in the land use zones between RE1 and RE2 public recreation, private recreation, which we will step through. But the key change and the reason – one of the rationales for the proposed change in zoning is that council would be then removed – the site would be removed from the land reservation acquisition map, and council would then no longer have a statutory requirement to – in the future, acquire that land for public open space. It would remain in private land, but the zoning would restrict the type of uses that could occur on that site.

Council, in its submissions, says that that change would still provide the recreation – for the recreation needs of the community, and, in a sense, there would be no impact to the recreation and open space needs for Matraville and the broader LGA. We have – on this slide, provide some of the thinking around why the department had included a gateway recommendation to remove that provision. I think one of the key matters to note is the inclusion – that the change in zone to RE2, private recreation, would introduce some permissible land uses that provide for a more intensive scale of development. That includes registered clubs, takeaway food and drink premises. But the key point to note is that there would be no commitment or no obligation for that landowner to make the site publicly open – publicly available open space.

There would be nothing stopping that landowner putting a fence around that site, for example, depending on the type of use, to charge an entry fee, or indeed, just to maintain it as private, private space. And the importance of it being acknowledged in council's existing LEP is that it has been identified as an opportunity to expand council's open space needs for the community. And the fact that it adjoins an existing park provides an opportunity to increase the amount of open space in the area. Council has prepared an open space and recreation need study that's part of the policy framework that has informed council's LEP. That open space study considered this site. It considered it in the context of remaining public open space, and it acknowledged that the site plays an important role in providing access to the area of Matraville, and one of the metrics it has used is the extent to which properties are able to walk to open space – what's available within a 400 metre radius. It's considered a – sort of, a benchmark standard, and this site is – was acknowledged in that open space study as playing an important role, as providing access within 400

metres. If it were to be removed, then there would be loss opportunities for the community.

5 That open space study also acknowledged that there is an overall decline in the amount of open space within the LGA, and that Matraville and adjoining Oxley has a shortcoming of open space. So for some of those reasons, we think there is some benefit and some merit for it to remain as potentially – to be acquired into the future by council. It would provide opportunities to expand that existing open space, to provide a holistic approach to the rehabilitation of the Bunnerong Creek reserve.
10 Importantly, I think that site is quite strategically located in providing a buffer between those residential areas to the north, and the industrial areas to the south. In the absence of that, then there's greater likelihood or potential impact of amenity considerations from that industrial zone. And the removal of that site as a potential public open space means that there would be less opportunities for the surrounding
15 area of Matraville to be within 400 metres of public open space.

This slide shows the key differences in the land uses between RE1 public open space and RE2 private open space. They are largely consistent, apart from those – a few
20 more intense land uses, but the key point to note is that there's no guarantee or obligation for RE2 land to be publicly accessible, and we think that's the point of distinction. It is – we also note from the department's gateway assessment thinking or analysis that the financial position of a council to have the resources to acquire that site is an irrelevant planning consideration, and I think that's one of the
25 rationales that council has put forward.

We think that the site has been identified for future acquisition by council and the financial position of council may change into the future. And for that reason, it should continue to be identified for public open space. But the existing financial
30 position of the council to acquire that site, on our view, doesn't circumvent the broader public interest considerations that was part of our assessment. I might just pause there and open up to Daniel Stace, who is our open space planner, who has been also looking at this matter. Dan, is there anything that you wanted to add?

35 MR STACE: No. That's great. Thanks, Malcolm. It's really concise. Nicely wrapped up. Possibly just, I guess, just that future use and strategic alignment of that site in relation to the Green Grid that connects from Heffron Park down to the Great Coastal Walk, sort of, the reduction of the site and that connection with Bunnerong Creek would definitely impact the potential for that Green Grid to deliver on really
40 good green infrastructure outcomes.

MR McDONALD: Thanks, Dan. Well, Peter and Adrian, that's the extent of the department's analysis or commentary in relation to that matter. But happy to take any questions you may have.

45 DR WILLIAMS: Well, thanks very much, Malcolm and everyone, all your colleagues. That's very helpful, very detailed, and certainly has gone a long way

towards answering a number of the questions that Adrian and I had. Just – Adrian, any questions in relation to this final condition?

5 MR PILTON: Yes, I'm just – I would like to ask, given the existing open space there, public open space, it doesn't appear to be accessible. What's the benefit of increasing it? Are there any plans for access points for the public to the site?

10 MR McDONALD: Laura, are you able to comment on the public access provisions of the site?

MS LOCKE: Probably have to take that on notice, sorry, unless, Simon, you've got an idea about the access existing.

15 MR IP: Certainly, Laura.

MS LOCKE: Thank you, Simon.

20 MR IP: This particular site is located right next to a council owned RE zoned land to the immediate east. So it presents opportunities for any future consolidation to improve the recreation of this particular site, as well as access.

25 MR PILTON: I'm just wondering, though, the existing site to the east is inaccessible, it's fenced off, and just looking at the configuration of the site and the main roads around it, I'm just wondering how people are going to get into it. I might ask the council that, perhaps, when they give their submission.

DR WILLIAMS: Perhaps - - -

30 MR PILTON: things, like it's going to be a, sort of, an appendix to the open space system, if you like. It's just a, sort of, dead end.

35 MR STACE: So I believe the RE1 site to the east affronts – connects to Botany Road and Bunnerong Road at that intersection. So that would be the – the entry point for any access to the site once it was made publicly accessible.

MR PILTON: So, yes. So we take it, then, that the fencing would be – the current existing fencing is, sort of, temporary?

40 MR STACE: That would be my understanding, yes.

MR PILTON: Okay. The other question I have is, are you aware of any plans to remediate Bunnerong Creek in a bigger sense, not just through that site?

45 MR STACE: Well, as being identified in the Green Grid, as they are a waterway corridor, they've obviously identified that that's a catchment corridor that they would like to – that they're interested in, and being that it feeds down to Botany Bay itself, the site that is in question for rezoning would be, sort of, the last point, and that

creek's catchment to enable some sort of water improvement before entering the bay itself.

5 MR PILTON: And that's a council responsibility, is it?

MR STACE: Currently, I don't think there's any allocated responsibility for that waterway corridor improvement.

10 MR PILTON: Okay. Thank you.

DR WILLIAMS: Any other questions, Adrian?

MR PILTON: No, I'm – that's fine, thank you.

15 DR WILLIAMS: Thanks. Yes. I found this a very difficult site. Looking at it yesterday, it's totally – the larger site, the public recreation land to the east, about a – 10,000 square metres, plus the site itself, about three and a half thousand square metres, is basically isolated. It's an island. And you've got – it's totally fenced off, the – not just this site, but the entire precinct. It's highly degraded. Its value, I
20 guess, would be if – as Adrian is eluding to, if Bunnerong Creek is remediated to improve the water quality moving through there, but it doesn't act – I can't see it being a high quality, accessible, high amenity public recreation area, irrespective of whether this – the site in question is added to it or not.

25 And I just, for example, in, I think, the second-last slide, there was the extract from the Central Green Grid Opportunities Map, which is also in the department's gateway review justification assessment. And the site itself doesn't really add connectivity by way of a grid. And that's separated from the other significant open space to the east by Bunnerong Road and Botany Road. And as I said, it's a highly
30 degraded site. Council has just installed a new park to the north west, Purcell Park on Australia Street, and clearly have gone to a lot of expense to upgrade that.

The other issue, reading – I think, with this site, and I think it's affected by the Water Management Act, it's the repairing corridor – and there's a 40 metre buffer zone that
35 applies to the site as well, which also, I would imagine, highly restricts any form of development that might occur on the site, irrespective of whether it's public or private ownership, or, you know, public or private recreation. So it's – anyway, I just find it a very difficult site in which the opportunities are severely limited. And any development that might occur on the back, irrespective of the zoning as I think
40 you've alluded to, might also have an impact on the amenity of the residential development to the north.

I mean, this doesn't appear as a key functioning open space corridor at present. And the fact that it's, as I've said, fenced off, high wire fence with barbed wire running
45 across the top, sort of indicates that it's – nothing much is going to happen to it in the new future. So is there any mechanism that you could suggest by which the – that is, accelerated or enhanced or – because I think the site at the moment – and there's

about, I think, some residential development about to occur at the front of the site as well, on the – sorry, industrial development on the industrial-zoned land. At least there's all signage there saying that that development will be occurring there this year, which will further isolate the site. Has the department got any thoughts at all
5 about what other use this land could possibly be equipped to - - -

MR McDONALD: Look, they're all very good points, Peter. And we were cognisant, too, of the constraints opportunities. I think its main benefit is the potential to expand upon the existing upon space adjoining it. But in the absence of a
10 detailed master plan or plan of management for that already zoned open space, I would suggest that probably council would need to do some work to see what the opportunities are to remediate and improve public access and then it may be a question of the extent to which that area could be – how much it would be improved by the incorporation of this adjoining site. But the proposed RE2 private recreation
15 could enable some – you could still potentially have a child care centre on it, for example, or some food and drink premises or the like, but it's quite isolated, and it's, you know, near that, sort of, residential area. So the intensification of the uses would be fairly limited.

20 DR WILLIAMS: Yes, yes. Sorry, what I'm trying to say in a shorthand way, is that it's a very difficult site what should happen to it, really. Yes, anyway. No. Okay. No, thanks very much for that. Sorry, Steve and Helen and Phoebe, have you got any questions to – at this stage, to add?

25 MS MULCAHY: Not at this point, no.

DR WILLIAMS: Okay.

MR BARRY: Not for me, I don't think - - -

30 DR WILLIAMS: Thanks Steve. Phoebe?

MS JARVIS: No. Not from me either. Thank you, Peter.

35 DR WILLIAMS: Okay. Thanks everyone. Okay, look, thanks, Malcolm. That has been extraordinarily helpful for us. Is there anything you would like to say, just to – by way of wrapping up, or final comment, or?

MR McDONALD: No, Peter. I think that our submission that we provided in
40 writing, and this presentation really constitutes the rationale, and we take on board your comments, particularly in relation to this last matter and the constraints. So I think as an area of local open space particularly, it's – they're questions that would be – I'm sure the commissioner would be interested to see what council's long-term plans for that area are.

45 DR WILLIAMS: Yes.

MR McDONALD: And there's probably – council is better placed to answer some of those matters than the department.

5 DR WILLIAMS: Yes. No, of course. Yes, that's good. It's just to get your views on the site itself, in addition to what's clearly stated, you know, in the written documentation. So, no, thanks very much for that. So nothing else at all, you want to add, anyone? Well, we will try to get this finalised around the middle of February. But I won't give a date at this stage. But that's our timeline to have the advice back to the department. We might need to get back in touch with yourself or any of your
10 colleagues, if that's okay, Malcolm, just for any points of clarification or privilege that arises along the way, if that's okay.

MR McDONALD: Yes, we're happy to help in any way we can, Peter.

15 DR WILLIAMS: All right. Thanks very much. And, look, thanks – as I said, just finally – thanks once again, the presentation has been very helpful in addressing a lot of our questions, so.

MR McDONALD: Okay.

20

DR WILLIAMS: Okay. Well, if there's nothing further, thank you all, and I will close the meeting now, and we can stop the transcript. Thanks everyone.

MR McDONALD: Thanks everybody.

25

DR WILLIAMS: Thanks.

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[10.34 am]