



New South Wales Government
Independent Planning Commission

TRANSCRIPT OF MEETING

**RE: 137 BRISBANE GROVE ROAD, GOULBURN PLANNING PROPOSAL
(PP-2024-2915) – GATEWAY DETERMINATION REVIEW**

DEPARTMENT MEETING

PANEL: MICHAEL CHILCOTT (CHAIR)

OFFICE OF THE IPC: JANE ANDERSON
TAHLIA HUTCHINSON

**DEPARTMENT OF
PLANNING, HOUSING
AND INFRASTRUCTURE:** CHANTELE CHOW
GEORGE CURTIS

LOCATION: ZOOM VIDEOCONFERENCE

DATE: 12:00PM – 12:45PM
MONDAY, 24th MARCH 2025

<THE MEETING COMMENCED

5 **MR MICHAEL CHILCOTT:** All right. Thanks. Again, good afternoon. Before we begin, I'll just acknowledge that I'm again speaking to you from the lands of the Dharug and Gundungurra people, acknowledge the traditional owners of these lands and those which our participants join us today, and pay my respects to Elders past and present.

10 This meeting is a meeting to discuss the Welcome to this meeting to discuss the Gateway Determination Review of the planning proposal to rezone and amend the minimum lot size at 137 Brisbane Grove Road in Goulburn. The reference is PP-2024-291, which is currently before the Commission for advice.

15 My name is Michael Chilcott. I am the Chair of this single-member commission panel undertaking the review. I have with me Jane Anderson and Tahlia Hutchinson from the Office of the Independent Planning Commission, who are assisting me today and throughout this process.

20 This meeting is being recorded today for the purposes of openness and transparency, and a complete transcript will be produced and made available on the Commission's website.

25 The meeting is one of the Commission's considerations of the matter and will form one of several sources of information upon which the Commission will base its advice. I may ask questions during the meeting and if you're not in a position to answer them during the course of the meeting, I'm happy for you to take them on notice and provide the response in writing, which we'll put up on the website.

30 And for the record, I just invite the Department's representatives to introduce themselves for the record.

35 **MS CHANTELLE CHOW:** Thank you. I am Chantelle Chow. I am the Acting Director for Southern, Western and Macarthur Region at the Department of Planning.

MR CHILCOTT: Thank you.

40 **MR GEORGE CURTIS:** Sorry. And I'm George Curtis, Senior Planner in Chantelle's team in the Department.

45 **MR CHILCOTT:** Thank you. And for those reading a transcript here, I'll just note that this is the second meeting that I've held with Chantelle and George in relation to planning proposals in relation to the Brisbane Grove Road area, south of Goulburn. And put on record that we've been through these matters in relation to one other matter, in case that assists anybody reading the transcript.

Chantelle, you, at the commencement of the meeting, were about to provide a clarification which I think we were able to establish ourselves from the previous

meeting. Perhaps what I'll do is I'll just hold that for the moment, and we'll just go through, just so it makes sense to anybody who's reading this transcript separately to the earlier one. We'll deal with that, I'm sure it relates to the Ministerial Direction matters, 4.1(4), and the link between that and the trigger from 5.22 of the LEP, is my suspicion is where you were going to take us. But we'll deal with that down the track, if that's okay.

MS CHOW: Yes.

MR CHILCOTT: Thank you. There is an agenda for this meeting which was circulated. I'll just – for to get it on the record, have you got any changes to that that we need to be aware of at this point?

MS CHOW: Not from me.

MR CURTIS: Not from me.

MR CHILCOTT: Thank you. In which case, I think, George, you have a presentation which the Department's put together, and Chantelle which you might wish to coordinate in a manner similar to the previous meeting we had on the other matter. And George, I'll just invite you, I assume it will be you again taking us through this. Is that correct?

MR CURTIS: Yes, it will be me again.

MR CHILCOTT: All right. Thank you. I invite you to just take us through this presentation in relation to the 137 Brisbane Grove Road proposal. Thank you.

MR CURTIS: Certainly. So, it's an 83.8-hectare rural site comprising 22 existing lots. It's located south of the Home Highway, 2 kilometres south of the Goulburn Urban Area, and adjacent to the Mulwaree River. And there's an aerial photo on the slide to the right.

The site is bounded on two sides by Braidwood Road and Brisbane Grove Road. And there is a locally listed heritage item called "Sofala" which adjoins the site but is not included.

Now, just a clarification. The label has moved – it's not actually pointing to the right location. It should be over to the right, just to the left of the "Subject Site" label.

MR CHILCOTT: Yes, I'll note, George, that when we did a site view there, we drove down Brisbane Grove Road and could see that property on an elevated position.

MR CURTIS: Okay, but it's not part of the planning proposal site. Okay. Next slide please.

5 So, the planning proposal sought to rezone the site from RU6 Transition Zone and RU1 Primary Production Zone to R5 Large Lot Residential and C2 Environmental Conservation Zone. And there's a proposed zoning map to the right on the slide. And also to amend the minimum lot size from 10 hectares and 100 hectares to 2 hectares and no (or zero) minimum lot size for the C2 zoned land. And there's a proposed minimum lot size map on the right of the slide. And the proposed planning controls could facilitate 21 dwellings.

10 Next slide please. In terms of a background. So, there was a previous planning proposal which sought 27 dwellings, which was submitted to Council back in December 2021. In March 2022, Council resolved to support the preparation of a planning proposal and to seek a gateway determination. So, Council prepared the planning proposal, including consultation with agencies as is required by relevant local planning directions, and submitted it to the Department for a gateway determination, which the Department issued in November 2022. And that gateway required the planning proposal to be completed within a year or by November 2023.

20 So, Council undertook pre-agency gateway consultation with the Rural Fire Service, WaterNSW and the Biodiversity and Conservation Division on the planning proposal. And in February 2023, Biodiversity and Conservation Division, their submission objected to the proposal due to concerns about the inadequacy of flood investigations and inconsistencies with the Local Planning Direction for flooding. Biodiversity and Conservation Division requested the Council prepare a flood impact and risk assessment to provide that additional flood information and to justify those inconsistencies with the Flood Direction.

30 So, work commenced on the preparation of the FIRA, but as the gateway determination date was nearing finalisation, the Department issued an alteration of gateway determination in October 2023 which determined that the planning proposal not proceed. However, the Department's cover letter indicated that a new planning proposal would be considered if supported by the completed FIRA.

35 So, the Proponent lodged a new planning proposal in April 2024, including the completed FIRA, which the Council supported and sent to the Department requesting a gateway determination.

40 So, the Department sought comment from the Department of Climate Change, Energy, the Environment and Water, and SES, on the planning proposal to inform its considerations of gateway determination. It received submissions from the SES later that month and from Biodiversity and Conservation and Science in June. Those submissions raised significant concerns with the planning proposal and the submitted FIRA.

45 So, the Department consulted with or met with Council and the agencies in July 2024 to talk through those concerns and issues. And then the Department met with Council just to give Council heads up on its ongoing concerns about the planning proposal. And then in November 2024, the Department issued a gateway

determination for the proposal not to proceed.

5 Next slide please. So, the Department was informed significantly by the comments that agencies made on the planning proposal. So, the key comments and issues raised by DCCEEW was that there was concern the FIRA had not demonstrated that new residential sites can be evacuated prior to becoming isolated. Concern about the increased number of planning proposals in the area south of the Hume Highway at Goulburn. And the need to consider the cumulative impacts associated with the increased occupation of land for residential use, and issues linked to flood isolation.

10 Concern that although the FIRA indicates that new houses may be above the probable maximum flood, the flood isolation issue has not been addressed and is likely to result in an increase in government spending on emergency management services, flood mitigation and emergency response measures, particularly flood-free road access.

15 Key issues and concerns raised by the SES were concern that several lots are affected by the probable maximum flood and will be impacted by high hazard floodwaters. Concern the entirety of the site becomes frequently isolated from vehicular access and egress in at least the 10% annual exceedance probability event. The development would expose the number of people and property to the effects of flooding and other secondary emergencies.

20 Development strategies relying on deliberate isolation or sheltering in buildings surrounded by floodwaters are not supported and are not equivalent to evacuation. And the SES opposes transfer of residual risk in terms of management response activities to the SES.

25 Next slide please. So, the key gateway determination issues considered by the Department were strategic merit and site-specific merit. In terms of strategic merit, the Department determined that the planning proposal was inconsistent with current and draft Southeast and Tablelands regional plans, particularly the directions and actions that relate to increasing resilience of communities to natural hazards and providing suitable locations for housing.

30 The Department also considered the proposal as inconsistent with the Local Planning Direction 4.1 Flooding, particularly in relation to the need to provide safe occupation and efficient evacuation of sites and not increasing government expenditure on flood mitigation and emergency management measures.

35 The Department considered that the inconsistencies with the Regional Plan and the local planning directions had not been adequately justified, despite the preparation of the FIRA.

40 The Department acknowledged that the site is identified in Council's Local Housing Strategy as an "opportunity site". However, the strategy identifies that flooding is an issue that needed to be addressed. And the Department's letter of

endorsement for the strategy identified that detailed assessment of opportunity sites would need to be undertaken by the planning proposal process.

5 In the Department's cover letter which accompanied the gateway determination, the Department advised Council that it was unlikely to support other similar proposals with long isolation periods, associated risks to future residents and emergency service workers, and the need for a significant government investment on emergency management services and flood mitigation measures.

10 The Department recommended that Council consider reviewing the suitability of the Brisbane Grove precinct for larger lot residential development in Council's Urban Fringe and Housing Strategy.

15 In terms of site-specific merit, the Department considered that the key issue was around flooding and the need for safe occupation and efficient evacuation site, and didn't consider that this site was a suitable location for housing.

20 Next slide please. So, in terms of flooding, the site is affected by the flood planning area which is the 1% annual exceedance probability flood plus a freeboard, and also affected by the probable maximum flood (PMF). Under the planning proposal, the flood planning area is proposed to be zoned C2 Environmental Conservation, which would prohibit development. And no dwellings are proposed between the flood planning area and the probable maximum flood.

25 Next slide please. However, the only vehicle evacuation route is via Braidwood Road. And this map shows the Braidwood Road as the evacuation route from the site, which needs to cross the Mulwaree River to get to the Goulburn Urban Area. And the Mulwaree River is affected by flooding – sorry, I mean, the Braidwood Road crossing of the Mulwaree River is affected by flooding.

30 So, site access is lost during events rare than a 5% annual exceedance probability flood, and the road is expected to be inundated for up to 22-and-a-half hours during a 1% flood, and up to 38 hours during the probable maximum flood. And the table down the bottom-right just shows that the – because of the nature of the catchment, the area fills rapidly within 6 hours but then, because it's so flat, the floodwaters take a long time to escape. So, at the 1% flood, the maximum depth reaches half a metre quite rapidly, but it doesn't escape for up to 22-and-a-half hours.

35 Next slide please. This aerial photo shows the evacuation routes from the site. From Brisbane Grove Road and then onto Braidwood Road, and the pinch-point is the crossing of the Mulwaree River. And the next slide shows the extent of the 1% and the probable maximum flood. So, the area fills quite rapidly.

40
45 **MR CHILCOTT:** Does the ...

MR CURTIS: Yes?

5 **MR CHILCOTT:** Just looking at it, can you just clarify, the 1% AEP event, does this also cross Brisbane Grove Road at that point where it touches? It's not quite clear whether it also – it looks as though it may not quite cut Brisbane Grove Road.

10 **MR CURTIS:** No, I believe not. I understand the internal road access is flood-free but it's only when you start, need to access Brisbane Grove Road – sorry, Braidwood Road.

MR CHILCOTT: Braidwood Road.

MR CURTIS: Yes.

15 **MR CHILCOTT:** All right. Thank you.

MR CURTIS: And the next slide shows the probable maximum flood which shows that, yes, Braidwood Road becomes fully inundated. That's the dark green colour.

20 And that is the end of the presentation.

MR CHILCOTT: All right. George, do you have the subdivision and lot layout available to you on this one as well?

25 **MR CURTIS:** I don't.

MR CHILCOTT: That's okay. All right, no, that's fine, thanks. No, thank you for that. I appreciate that. So, I appreciate that presentation and thank you for the time you've taken to pull that together.

30 If you are able, perhaps let's move onto the discussion of the various potential impact matters. And I've made reference earlier to a meeting that we held not that long ago in relation to an adjoining, almost adjoining development proposal. So, some of this discussion may overlap with things previously discussed.

35 But just in relation to flooding. Chantelle, I'll just bring you in for that clarification you wish to bring, this, I think, relates (if I'm not mistaken) to the triggering of the provisions of Ministerial Direction concerning clause 4.1(4). Is that correct, of the Ministerial Direction?

MS CHOW: Yes. So, it's just a note to yourself that the Ministerial Directions have been in effect since 2009. So, we have been assessing planning proposals and rezonings against them since 2009.

45 **MR CHILCOTT:** All right, thank you. One of the points, and again this is for your information, you may want to come back to us on the record in relation to this. So, in the previous meeting and it relates specifically to this matter as well, I

was inquiring as to the relevance of clause 5.22 of the LEP and how that fed into or interacted with the Ministerial Direction provisions.

5 And I was trying to understand and I, for this, it's also important for me to understand whether there's a direct link between 5.22 of the LEP and the Ministerial Directions considerations. And I'm thankful to one of my colleagues, Tahlia I think it was, who brought to my attention the fact that in the Ministerial Directions, the provisions of 4.1 sub 4 of the Ministerial Directions are specifically triggered by the fact that there exists 5.22 of the LEP in relation to this matter.
10 And there is a direct link there. I'm not sure if we were clear about that in the previous meeting. I just wanted to raise that with you. Is that your understanding as well?

15 **MR CURTIS:** Yes, it is.

MR CHILCOTT: All right. Thanks. And as I said, I'm not sure it was clear in the previous meeting that there was that specific trigger, which I'm now clear on myself. And I just wonder whether you might, for the record, given we want to be clear on the other matter, perhaps just when you write back to us, because I think
20 you were going to write back to us in relation to some matters on that one. You might just include a note on that link in how not 4.1 but the specific subsection of 4.1(4) is brought into a matter of consideration by the application or the inclusion of 5.22 in the LEP. Just so we've got that on the record as well. It's relevant to both matters, including this one.

25 **MS CHOW:** Yes.

MR CHILCOTT: And Chantelle, your screen shows you looking down at the moment. I'll wait for you to look up or for me to be able to see – oh, look, there
30 you are. Okay. So, that we now know you've completed making a note on that matter. Thank you.

So, in relation to flooding on 137 Brisbane Grove Road, one of the matters that again we had previously touched on in relation to another matter, may be relevant
35 here, is the shelter-in-place guidelines. Can I just be clear on the record here that the same interpretation, which is that shelter in place relates to the movement of a building's occupants in an area within the building above the probable maximum flood and before the property becomes inundated, apply in this.

40 I think in this matter, all the building footprints again were outside of the PMF. Notwithstanding you didn't, I think, show us directly, George, in your presentation that that was the case. But can you confirm that that's the case?

45 **MR CURTIS:** Yes, that's my understanding from the planning proposal.

MR CHILCOTT: Thank you, and so –

MR CURTIS: That the building had to be located, yes, outside the flood affected

area.

MR CHILCOTT: Outside the PMF affected area.

5 **MR CURTIS:** Yes, yes.

MR CHILCOTT: No, that's fine, and then that triggers – brings us into how one considers the shelter-in-place guideline that came into being, I think, you gave us the date of sometime in January for that.

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MR CURTIS: Yes. The final shelter-in-place guideline was released – yes, at the time it was –

MR CHILCOTT: It was about the –

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MR CURTIS: Sorry, I was saying at the time when we were assessing the gateway determination, there was an exhibited draft shelter-in-place guideline.

MR CHILCOTT: Mm-hm.

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MR CURTIS: We considered, looked at the intent of the guideline.

MR CHILCOTT: And now it's been formalised.

25

MR CURTIS: Yes.

MR CHILCOTT: Okay. But thank you for that and I appreciate that clarification of how it may or may not apply in relation to a consideration for this matter as well. And the matters in 4.1 subclause 4, paragraphs (e) and (f), you've specifically highlighted as matters of particular concern in relation to this proposal as you have in other ones that we've discussed previously.

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MR CURTIS: Yes.

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MR CHILCOTT: Thank you. Is there anything in relation to 137 Brisbane Road that you particularly want to bring to our attention beyond matters, or emphasise in relation to the assessment you've undertaken, that may be particularly related to this one rather than other ones that might also be the subject for considerations before the Commission? I'm trying to establish any distinguishing features or whether they're common in fact with matters previously discussed.

40

MR CURTIS: Yes. Common matters. The key concern was about the period of isolation that was proposed for the site, given the vulnerability of the major access road, that being Braidwood Road, into the Goulburn CBD. Just the extensive period of isolation. And we did use the shelter-in-place guideline as a guide, recognising that it doesn't completely deal with isolation, it's more about shelter in place within the building.

45

But in the spirit of the guide, we still think that periods of up to 23 plus hours of isolation is an unacceptable risk to the occupants as well as emergency services vehicles, emergency services agencies that might be forced to carry out a rescue or an evacuation.

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MR CHILCOTT: All right. Thank you. And you've confirmed at least on the record for this one that there are no areas of PMF affected proposed building footprints that would see the explicit application of the shelter-in-place guidelines. But I understand what you've said is that from Planning's perspective, at least in the assessment phase there was a spirit there that you gave some consideration to even if the explicit terms of the shelter-in-place guideline are not triggered.

10

MR CURTIS: Yes, that's right. Yes. The guideline indicates that self-evacuation is the number one planning response for flood affected areas. And also, that when you're planning for greenfield areas, and we consider this is a greenfield area because it's currently rural and there are actually no dwellings at all on this particular site, that shelter in place or even isolation isn't a suitable planning strategy for greenfield areas.

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MR CHILCOTT: Thank you.

MR CURTIS: Self-evacuation is the primary planning approach.

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MR CHILCOTT: Thank you. And so you've dealt with [audio glitch 00:27:33] in your presentation, which is on the record, the matters of evacuation and emergency services and the timings of those isolation periods. Is there anything additional you wish to put on the record in relation to ...

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MS CHOW: Similar to the other proposal that we met on, the mitigation measures proposed under the FIRA and within the planning proposal are not considered acceptable in enabling future residents to evacuate the site. In relation to, I guess, the cost needed to upgrade Braidwood Road to ensure that it is accessible for evacuation purposes during the PMF.

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MR CHILCOTT: Thank you. And I'm not sure, I'm just double checking whether we have your colleague, George, still online.

MR CURTIS: Yes, I'm still here, Michael.

40

MR CHILCOTT: George, are you still there?

MR CURTIS: I'm still here.

45

MR CHILCOTT: That's fine. Your image had frozen for a moment, but it's one of the challenges of doing virtual meetings is that from time to time we do need to check in on these things, so thank you.

You've noted as well that there is a heritage structure in an adjacent property but

it's not directly relevant to this particular proposal. Are there any other heritage matters you wish to touch on in relation to this particular proposal?

5 **MR CURTIS:** No significant issues were raised in the planning proposal. And the relevant agencies didn't raise any issues with regard to heritage or Aboriginal cultural heritage. Yes, there was a Heritage Report and an Aboriginal Cultural Heritage Due Diligence Report done, and they didn't indicate or make any conclusions that there would be any particular impacts from this proposal.

10 **MR CHILCOTT:** All right. Thank you. And we've been, we've had some discussions in relation to – and I'm thankful of your assessment in relation to the various regional plans and how they fit in your view in this matter, and we just had a more detailed discussion about section 9.1 of the Ministerial Directions, for which I'm grateful as well.

15 Is there anything further that we want to discuss or you wish to bring forward to us for our consideration in relation to any of those matters at this time?

20 **MS CHOW:** Not from me.

MR CURTIS: Thanks, Chantelle.

25 **MR CURTIS:** Only that, yes, Council's housing strategy does identify quite a significant amount of opportunities for housing, both standard residential and also large lot residential, particularly in areas north of Goulburn in the Marys Mount area along Crookwell Road and also around Marulan, so there are opportunities to provide that type/style of housing. And we've offered to work with Council to identify any additional sites. The benefit of the area north of Goulburn is it's a much steeper catchment, so it's less likely to be affected by long periods of flooding.

30 **MR CHILCOTT:** All right. No, thank you for that, I appreciate that input. Based on the discussions we've had today, I don't have any further questions for you at this time. I'll just check in with my colleagues, Jane and Tahlia, to see whether they had any notes of things that I'd intended to bring up which I haven't. From my perspective, I'm complete. Jane, is there anything that you can think of that needs to be brought forward with the Department at this point?

35 **MS JANE ANDERSON:** No, nothing further, and I think you've covered all the points. Thank you.

MR CHILCOTT: Thank you. Tahlia?

40 **MS TAHLIA HUTCHINSON:** I just wanted to confirm for the record for this meeting if the Department undertook a site inspection of this planning proposal as well?

MR CHILCOTT: Thank you.

MS CHOW: George?

5 **MR CURTIS:** Oh yes, I visited the site at the end of last year prior to the Department finalising its Gateway Determination Report.

MS HUTCHINSON: Thank you.

10 **MR CHILCOTT:** All right. Thank you very much for that. I appreciate that advice. All right. If there are no further matters, then I'll draw the matter to a conclusion, or this meeting to a conclusion. My thanks to you both for your attendance today.

15 **MS CHOW:** Thank you.

MR CURTIS: Thank you.

20 **MR CHILCOTT:** Thank you. If we do have any questions that arise from discussions we have with the Applicant in this matter or other matters, we'll come back to you in due course.

MS CHOW: Yes, not a problem. Thank you.

25 **MR CURTIS:** Thank you.

MR CHILCOTT: Thank you very much, both. Good afternoon. Bye.

>THE MEETING CONCLUDED