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TRANSCRIPT OF PROCEEDINGS

TRANSCRIPT IN CONFIDENCE

O/N H-1290347

INDEPENDENT PLANNING COMMISSION

MEETING WITH COUNCIL

RE: 55 WIRE LANE BERRY GATEWAY

PROJECT #: 12348-06

PANEL: CHRIS WILSON (CHAIR)

**OFFICE OF IPC: STEVE BARRY
CALLUM FIRTH**

**COUNCIL: GORDON CLARK
KRISTY O'SULLIVAN**

LOCATION: SYDNEY

DATE: 11.05 AM, WEDNESDAY, 30 SEPTEMBER 2020

THIS PROCEEDING WAS CONDUCTED BY VIDEO CONFERENCE

MR C. WILSON: Okay. Before we begin, I would like to acknowledge the
5 traditional owners of the land on which we meet. I would also like to pay my
respects to their elders, past and present, and to the elders from other communities
who may be here today. Welcome to the meeting. A request for the Commission to
review the gateway determination for a planning proposal has been lodged by the
proponent seeking to amend the Shoalhaven LEP 2014 to rezone 55 Wire Lane,
10 Berry. RU1 Primary Production and RU4 Primary Production Small Lots to R5
Large Lot Residential and E2 Environmental Conservation. It also proposed to
establish a one hectare minimum lot size control for the site.

My name is Chris Wilson. I'm the chair of this IPC panel. The other attendees of
15 this meeting are Stephen Barry and Callum Firth 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 full 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
20 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're asked in a question and not in
a position to answer, please feel free to take the question on notice and provide any
25 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 that they do not speak over the top of each other to
ensure accuracy of the transcript. We will now begin. Would you like to introduce
yourself?

30 MR G. CLARK: Yes. So I'm Gordon Clark. I'm Shoalhaven Council's strategic
planning manager. And with me is Kristy O'Sullivan, who is one of the strategic
planners in council's strategic planning team.

35 MR WILSON: Okay. Look, we sent you an agenda, which is really just based
around the decision, the Department's reasons for the gateway determination not to
proceed. I guess from council's perspective, we would like to understand council's
reasons for supporting the proposal, particularly given the report that went to the
development committee, so the reasons that sort of support, I guess, the
40 recommendation to the Department.

MR CLARK: Yes. Look, so, Chris, I think, you know, very simply, the elected
council resolved to submit the proponent's planning proposal to the gateway. The
councillors in their discussion at the council meeting in their opinion believed it was
45 suitable to be submitted for gateway determination. I think some of the things that
sat behind that decision from the council were essentially that there has been

strategic decisions in the past that have identified that general area as being suitable for rural residential development, and there was also very much a clear desire to see additional product of that nature in the northern part of the Shoalhaven, given the range of detail which is in the proponent's planning proposal about, I suppose, the
5 lack of supply of that type of rural residential development in the northern part of the Shoalhaven, and that there's then the demand for it.

MR WILSON: Okay. Well, I guess, then, are you in a position to talk to the Department's reasons for refusal?
10

MR CLARK: I'm not, because they're the Department's reasons for refusal.

MR WILSON: Well, maybe we could ask the question a different way. I mean, in terms of the Illawarra-Shoalhaven Regional Plan and Shoalhaven growth
15 management strategy in terms of, let's say firstly, housing.

MR CLARK: So in terms of – in terms of the – I will start with the regional strategy. The regional strategy, you know, has no definitive statement about not supporting rural residential rezoning proposals unless they're supported by strategies, so there's no statement of that nature in the regional plan as it now is. But there are a
20 lot of statements, I guess, that, you know, I could stand here and say that the planning proposal is consistent with, and also you could also come up with statements in the regional strategy that it's inconsistent. So essentially, you know, the proponents and to a certain degree our council have viewed the fact that it's
25 consistent with that strategy because it provides an additional form of residential supply that's needed in the market, that was quite clearly one of the reasons the elected council supported the planning proposal. And that is also in the regional strategy about, you know, the importance of residential housing supply of all types.

MR WILSON: Okay. So what about lots of rural land, agricultural land, primary production land?
30

MR CLARK: So again, as you would have most probably read within the proponent's planning proposal, they obviously contend that it's not necessarily viable
35 agricultural land, so to that end I would suggest to you that the council accepted that proposition put forward by the proponent.

MR WILSON: Okay. So what would be the – just on that in terms of agricultural land, what would be the predominant – I mean, is 40 hectare minimum – that would
40 be the – what would be sort of the average size of a lot that's in that area – notwithstanding Campbells Run and the lifestyle lots to the west of the current site, what would be the sort of average size?

MR CLARK: So if you exclude the land, as you just said, Chris, to the east and
45 west of this site, the standard, you know, residential subdivision minimum is 40 hectares. Look, there would be, certainly, some parcels which are smaller than 40 hectares, but there are, you know, existing residue parcels or they're existing

historical parcels. But generally if someone wanted to build a house or wanted to subdivide, you know, as you guys would appreciate, they would need, you know, to be able to create 40 hectare parcels. So in terms of the numbers outside of those two areas - - -

5

MR WILSON: Yes, yes. No, that's okay. I appreciate that.

MR CLARK: Look, we can certainly, if you wanted, if that's something, some data you would find useful, we can certainly give you information on, let's say, the rural zones north and south of this site in terms of their current lot sizes.

10

MR WILSON: Look, I will consider that and I will see if that's necessary, and I will – I might come back to you on that

MR CLARK: Yes. Look, it's something we can run fairly quickly for you off our GIS system. But, look, I do – can I just clarify I'm acknowledging that there are smaller lots, obviously, east and west of the current site.

15

MR WILSON: Sure. Along Beach Road.

20

MR CLARK: Along Beach Road, because of their different zonings, where you've got basically a Large Lot Residential zone, and also an RU4 Primary Production Small Lot zone as well.

MR WILSON: Sure. Okay. The issue about the Southern Regional Planning Panel's decision and recommendations to council, which was adopted by council, is that correct, or – the position of the panel was adopted by council under resolution?

25

MR CLARK: No, the position of the panel wasn't adopted by council under resolution, but certainly the planning proposal at that panel, the finding was that it was – you know, it did move forward through council and has subsequently been rezoned. Everything was completed about probably within the last couple of months. So, you know, I don't know that I can necessarily say to you that the council resolved to accept the findings of - - -

30

35

MR WILSON: Okay.

MR CLARK: - - - the planning panel, but they certainly resolved to take the planning proposal forward consistent with the findings of the panel.

40

MR WILSON: Okay. So there wasn't a separate resolution that there be no further rural residential subdivisions until such time as further strategic

MR CLARK: Look, I don't – I don't know the council necessarily made that decision off the back of that planning proposal.

45

MR WILSON: Okay.

MR CLARK: Look, that's something we will come back here and clarify for sure. I think, you know, if my memory serves me right, it was just to resolve – just proceed forward with that individual planning proposal, and not - - -

5 MR WILSON: Sure. Okay.

MR CLARK: - - - a resolution made about the – you know, the strategic question that was raised by the panel.

10 MR WILSON: Both the Department and the proponent itself refer to the need for councils to plan for, you know, a range of – a diverse range of housing and so forth. How is that occurring? Will that occur through the local strategic planning statement?

15 MR CLARK: It wouldn't at the first level, Chris, because obviously, as you probably already appreciate, our city is, you know, relatively large, you know, four and a half thousand square kilometres, 49 towns and villages. So if we were to go down to that level of detail in our local strategic planning statement it would be hundreds and hundreds of pages long, and that's not the intent of that document.

20

MR WILSON: Right.

MR CLARK: But certainly what our local strategic planning statement does do, which interestingly was adopted by council last night, does foreshadow a few things that will – I guess we will undertake that will then inform the need for future housing supply of all types. So we've got a number of pieces of strategic work that we've committed to through or LSPS, which will ultimately then inform potentially future rezonings.

25
30 MR WILSON: Okay. And what does that – in terms of rural residential development, what does it – is there a high-level statement of some type?

MR CLARK: So basically the – essentially we're – we've got essentially three pieces of key work where the council have resolved as part of the LSPS to turn the table on is an independent economic review of the city in terms of essentially – economic in the broader sense, so not just industry - - -

35

MR WILSON: Sure.

40 MR CLARK: - - - and whatever, but in terms of particularly responding to basically, you know, the challenges that we're now seeing as a result of things like COVID-19, but also the move – continuing move to the coast, so broad independent economic review, housing strategy, and also a review of our growth management strategy are probably the three key pieces of strategic work that we've got in front of us.

45

MR WILSON: Okay. Thank you. Callum, have you got anything at the moment?

MR FIRTH: No, not from my end.

MR WILSON: Okay. So is there a timeframe, or is there – are you able to give us a
5 timeframe in relation to when that work might be completed or is there a timeframe
within the strategy – the resolution from council last night as to the timing of that
work?

MR CLARK: So the first thing that we will be doing is obviously that independent
10 economic review. That's basically considered to be – essentially our document talks
about immediate, short-term, medium and long-term. So essentially the economic
assessment is immediate, then obviously that will be done first and obviously will
flow on into the housing paper and also the growth management strategy review. So
essentially the other thing that the council has resolved as part of our LSPS process
15 to set up is a strategic planning working party made up of all of our elected
councillors, which obviously will – you know, we will do that independent economic
review first, and obviously that working party will determine, you know, where to
next and in terms of priority, what's the priority in terms of timing

MR WILSON: Okay. Just on that – and you've been a strategic planner – I mean,
20 housing won't necessarily be market-driven. It will be – it will be based on need as
well, won't it, and location – and the right location?

MR CLARK: That's correct.

25 MR WILSON: Yes. Okay.

MR CLARK: Look, and the other thing, too, is that, you know, like, the one thing I
probably – you know, is purely an opinion of mine is that particularly, you know,
30 residential rezonings, be they residential, be they rural residential, it's a contested
space. So in terms of the strategy around it, particularly in our area, it's not an easy
task to completely in a timely manner, because basically it is that contested space.

MR WILSON: Yes. No, I appreciate that. I think that's – that was brought to our
attention in relation to the residential strategies that have – that council adopted back
35 in 2007, was it, or - - -

MR CLARK: Look, I think the one which gets frequently mentioned is council's
original rural plan from the sort of late 1990s.

40 MR WILSON: Right.

MR CLARK: Sorry – yes. It took about 10 years to be – to complete, because –
and the observation of that from being here at the time was it just became such a
contested issue - - -

45

MR WILSON: Sure.

MR CLARK: - - - and such a – yes, a political hot potato. But, yes, it just was not an easy thing to get, you know, in and out of.

5 MR WILSON: Yes. No, I appreciate that. So, look, just in terms of both those existing subdivisions – I think one is called Campbells Run; that was – and that was approved in 2002 and has been basically development.

10 MR CLARK: Yes. So essentially, that came out of our previous set of decisions by the council which were focused largely around trying to bring Coomonderry Swamp, which is a nationally recognised wetland, into public ownership. So that – there was a previous planning strategy of the councils probably from the late '80s, early '90s, to try and bring that into the public ownership through – we had at that point what was called a fair trading policy.

15 MR WILSON: Okay.

MR CLARK: So whereby, you know, if you – depending on the public – it was pre the requirements of the etcetera, pre – it was probably pre – originally started pre '93 and the contributions plan legislation. So essentially, you know, what is, you
20 know – it was basically, depending on how much land you're prepared to dedicate that contains a particular type of asset that the council wishes to bring into public ownership, then, you know, basically the return was rezoning of other areas.

25 MR WILSON: Okay.

MR CLARK: So it came out of – Campbells Run came out of – the two subdivisions of Campbells Run came out of that legacy of trying to bring Coomonderry Swamp public ownership.

30 MR WILSON: Okay. Okay. All right. That makes sense. So in other words, public benefits associated with that were seen to override any concerns about loss of agricultural land; is that right?

35 MR CLARK: That's correct. I mean, so essentially – so in that area of Campbells Run there were – Campbells Run developed in two locations, so – and then there was a property in the middle which was the recent Beach Road planning proposal.

MR WILSON: Yes.

40 MR CLARK: So essentially – and that was prima facie the reason we supported the Beach Road planning proposal, was that it was actually sandwiched between the two areas of Campbells Run, and actually was actually in the very early thinking behind that area anyway, except that the owner at the time pulled out before the rezoning process started. So they were actually in, and then they were out, then the passage of
45 time – you know, 20 years apart.

MR WILSON: Sure, sure. So there was – there's talk about the commission of inquiry.

5 MR CLARK: It wasn't a commission of inquiry. It was a public hearing that was run by the commission – for council by the commissioners of inquiry.

MR WILSON: Okay. So it wasn't – I might be getting confused with this South Coast Sensitive Lands inquiry.

10 MR CLARK: No, I think what you – I think this is a common misconception, Chris, is that – so coming out of the rural plan process, there was a public hearing, and that public hearing looked at all the proposed rural residential zones as part of the rural plan, and we – and that was run for council by the, as it was then, Commissioner's inquiry. Yes. So they looked at that area that basically – the other area, the current
15 RU4 zone was part of their deliberations back then as part of that.

MR WILSON: Okay. All right. But the recommendation was that it stay as rural land, wasn't it?

20 MR CLARK: I think – no, no. So the recommendations of the commission of inquiry back then in terms of that that area that's now zoned RU4 was more about that they assisted through the public hearing process to actually come up with, in discreet locations, more appropriate planning controls.

25 MR WILSON: Okay.

MR CLARK: But coming out of that public hearing was, I think, in that location a recommendation that was subsequently reflected in the LEP that the minimum lot size be – was one lot per 10 hectares. It was a denser - - -
30

MR WILSON: Okay.

MR CLARK: Yes. And that's why it then moved across into RU4, because it was, you know, not necessarily truly rural residential, but was more rural – small lot rural
35 agriculture.

MR WILSON: Campbells Run is 10 hectare minimum, is it?

40 MR CLARK: No, no. So Campbells Run is – so Campbells Run is – so there's – just to clarify, so there's Campbells Run, which has an R5 zoning.

MR WILSON: Okay.

45 MR CLARK: And then there's the RU4 area, which is between Berry.

MR WILSON: On a different side. Yes.

MR CLARK: So the Wire Lane area is the one that the public hearing that the commissions of inquiry - - -

MR WILSON: Okay.

5

MR CLARK: - - - and the two – yes, considered the minimum lot size for that area.

MR WILSON: That's the rural lifestyle lots.

10 MR CLARK: That's correct.

MR WILSON: Yes, okay. I've got it.

15 MR CLARK: So it wasn't a – yes, it wasn't a commissioned inquiry. It was a public hearing that was run by the commissioners of inquiry.

MR WILSON: To assist council.

20 MR CLARK: To assist council, yes.

MR WILSON: Okay.

25 MR CLARK: Because of the size and scale and contested nature of it, look, I can't exactly remember why we ended up using them, but I think it was seen to bring some – try and bring some independence to the process.

30 MR WILSON: Yes. No, I appreciate that. That's okay. Look, I don't have too much more. I appreciate you contributing today to the meeting. I know it's not easy. So I don't think we have any follow-up questions. Callum, do you have anything else? Callum?

MR FIRTH: Sorry. No, I don't.

35 MR WILSON: Okay. All right.

MR CLARK: Chris, the only thing I would say before we leave here is, as you appreciate, as staff members of the Council, we obviously have to implement the recommendations of the Council. So - - -

40 MR WILSON: Fully appreciate that.

45 MR CLARK: - - - yes, essentially that's why a lot of my answers today have been very much trying to put myself into the, you know, why did the Council support this planning proposal.

MR WILSON: Yes. No, no, I fully appreciate that. And I understand here you're representing your council. So, no, that's fine. Is there anything else you want to add to that?

5 MR CLARK: Not really. Again, like, if you want some of that – those numbers on the – you know, the lot sizes of - - -

MR WILSON: We may come back to you when we're - - -

10 MR CLARK: Yes. drafting our report, if need be, but - - -

MR CLARK: The other thing is if you want, we still have a copy of or copies of the public hearing report from the commissioners of inquiry, if that's of interest to you as well.

15 MR WILSON: Okay. Would they be on – they wouldn't be on, though. Commission has gone, hasn't it?

20 MR CLARK: The commission is gone. I think that's you guys now, isn't it? No, it's not.

MR WILSON: It's a different beast. But, okay - - -

25 MR CLARK: We certainly have – we certainly have that immediately if you - - -

MR WILSON: Yes, sure. I appreciate that. Okay.

MR CLARK: - - - if you say you want access to that.

30 MR WILSON: All right. And what about the resolution last night? Is that beyond your web?

35 MR CLARK: We wouldn't be, but I can email – either Kristy or myself can email that now to Callum.

MR WILSON: Yes, that would be really useful as well. I appreciate that. Okay. Look, thank you very much for your time.

40 MR CLARK: No worries. Thank you. Thanks for your time.

MR WILSON: Thank you.

MR CLARK: Thanks, guys.

45 MR WILSON: Bye.

MR FIRTH: Thank you.

MR CLARK: Bye.

MATTER ADJOURNED at 11.27 am INDEFINITELY