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TRANSCRIPT OF PROCEEDINGS

TRANSCRIPT IN CONFIDENCE

O/N H-1327227

INDEPENDENT PLANNING COMMISSION

APPLICANT MEETING

RE: 42 BELLS LANE, KURMOND

PANEL: ANNELOISE TUOR, CHAIR

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

**APPLICANT: PETER AMOR
MATTHEW OWENS**

LOCATION: ONLINE

DATE: 1.03 PM, FRIDAY, 6 NOVEMBER 2020

THIS PROCEEDING WAS CONDUCTED BY VIDEO CONFERENCE

5 MS A. TUOR: All right. So good afternoon, and welcome. Before we begin, I would like to acknowledge the traditional owners of the land on which we meet. And I would like, also, to pay my respect to their elders past, present, and emerging.

Welcome to the meeting today to discuss the gateway determination review for 42 Bells Lane in Kurmond. My name is Annelise Tuor and I'm the Commissioner appointed to this review. Joining me from the Office of the Commission are Lindsey
10 Blecher and Jane Anderson. In the interests of openness and transparency, and to ensure the full capture of information, today's meeting is being recorded and a complete transcript will be produced and made available on the Commissioner's website.

15 This meeting is one part of the Commission's review process. It is taking place at the preliminary stage of this process and then will form one of several sources of information upon which the Commission will base its advice. It is important for the Commission to ask questions, of attendees, and to clarify issues whenever I consider it appropriate. If you are asked a question and are not in a position to answer, please
20 feel free to take the question on notice and provide any additional information in writing which we will then put up on our website. To ensure the accuracy of the transcript, I request that all member today introduce themselves before speaking, each time they wish to speak, and for all members to ensure that they do not speak over the top of each other.

25 So now we will begin. So on the Agenda, the first item was just that you would give a presentation of your planning proposal, particularly, I think, addressing the, sort of, strategic merit issues of the proposal?

30 MR M. OWENS: Yes. That's correct. My name's Matt Owens. I've been engaged by the owner, Peter Amor who's also in this meeting, to lodge this request for a review.

MS TUOR: Yes.

35 MR OWENS: I've prepared a, just a brief PowerPoint. It's really just something to talk to. It makes it a bit easier, particularly, in this sort of an arrangement it's a bit hard just staring at people in a screen.

MS TUOR: Yes.

40 MR OWENS: But if I can share the screen, I've just got to find it first. There it is. So can you see that presentation okay?

MS TUOR: Yes.

45 MR OWENS: Yes.

MS TUOR: Yes. That's fine.

MR OWENS: Okay. Well, first of all, I just wanted to give a bit of a background. And I know you have all this information. But, I think, this is quite relevant to the information that's in the planning proposal and where it's been going. So it was prepared and lodged to Council in 2016. And at the time, it was prepared and lodged
5 in accordance with the requirements of the strategic plans that were in place. The plan was reported to Council in January '17 with a report recommending approval and Council resolved to refuse it.

Now, I'll just give a bit of background to myself. I was actually Director of Planning
10 at Hawkesbury Council in 2007 to 2018. So that report on this matter that went up to Council was actually my report. Now, I haven't been with Council for two years and so it's quite separated from that, now. But I do understand why that resolution to refuse was put forward. And also, straight after that meeting, there was a rescission motion lodged. So I'm saying this from firsthand because I was actually there, and it
15 was handed to me.

The resolution to refuse was, I think, more on an ideology of the new Council. It was the third meeting of the new Council at the time and they wanted to be, show toughness, I suppose. But that resolution, that recession motion was submitted immediately, the very next meeting that decision was rescinded. So a lot, then, a lot
20 happened. But I'm not sure, because I wasn't at Council. And not much was actually said. But it just went back up to Council on 10 September. And that's where Council resolved to approve or support the planned proposal. And then, the gateway determination to refuse it was issued on 5 May this year.

So this is the part of the resolution that's relevant. And why I'm showing this is that
25 the Council has recognised that there are studies required, and the applicant does, as well. But the crucial part of that was Council was also recognising that those studies could be done after the Gateway determination was issued. And that's recognising that spending all the money, and time, and effort doing those studies, if there was going to be no Gateway would have been a waste of time and money for the
30 applicant, for the owner, and for Council itself.

So that was the way they've looked at it, there. So the Gateway determination was these six reasons. The proposal being four years' old, State plans weren't in place at the time. So that Metro Strategy, the West City District Plan wasn't actually in
35 place. And so if after going to Council it was referred back to the owner, the plan could have been formally updated. That was actually a recommendation of the Council Officer on 10 September. But that didn't happen because the Council resolution was different.

And why I'm saying, "That could have been updated." Is, I feel that the application
40 for a Gateway review has indicated that these things can be addressed. It's not an insurmountable obstacle there. So in relation to the strategic context there, the request for review has actually undertaken an assessment against the State documents. And it's found that there's a general consistency there. So it's nothing too onerous there that couldn't be resolved under this.

The Council strategy document that was in force at the time of lodgement and is still in force is the Hawkesbury Residential Land Strategy 2011. Now, that hasn't been revoked and it hasn't been updated yet. It is acknowledged that Council is currently reviewing those plans. But those plans are either still a draft, still being drafted, or they're not even publicly available. Particularly, with the Gateway determinations, talked about a Rural Land Strategy. And there has only been a synopsis of that reported to Council. There has been no formal document released.

So the Gateway determination stated that:

The proposal is not supported by an updated Local Strategic Planning Framework.

Well, that's true. But you could say that with anything. There is a Strategic Planning Framework in place. It's the Residential Land Strategy of Council. It is noted that it's being updated. But when you look at what's available from the Council to be updated, and looking at the State plans, there's general consistency with this proposal with the State plans. The proposal is consistent with Council's current strategic direction for in the Hawkesbury Residential Land Strategy.

And also, in the information that's available from Council, it's generally consistent with that in post of the aspects, except for one aspect of lot size. So just to speak a little bit to this, to the property itself, that's the property in red there. There's a ridgeline running through parallel to the southern boundary and, then, the property falls to the north where the dam is, down into this gully that you can see there with the vegetation. So this diagram is in the 2016 proposal and the area hasn't changed significantly, so it's still quite valid. It can be seen from the vegetation on the property here and in the surrounding area, that a decision on whether it could proceed through the Gateway or not is quite feasible in the absence of Flora and Fauna and Bushfire, because it's not at great risk.

If vegetation was very thick, and right around the property, and on the property, then, that would be a different matter and I would agree that it would be needed before the Gateway. But, in this case, it can be seen that it's quite possible to be done now. In the Gateway determination report, there was discussion about, "a view line". And that view line point was at the intersection of Bells Line of Road and Bells Lane where the mouse is, up here. When you stand at that intersection, it's actually, quite difficult to even see the house down here on the highest point, from that point.

And then, the property then falling away to the north, you can't actually see any of that property there because of the vegetation and the topography from this point up here, the view line. The property is not actually in that view line. The principal view, from this point, is actually to the south. Am I - - -

MS TUOR: I will just interrupt you, because I can't actually see your mouse. So - - -

MR OWENS: Oh.

MS TUOR: - - - if you're pointing at things, I can't see.

MR OWENS: Sorry. You can see the intersection at the top right-hand corner?

5 MS TUOR: Yes.

MR OWENS: That's Bells Line of Road, is the main road, and then Bells Lane turns off. That's the - - -

10 MS TUOR: Yes.

MR OWENS: - - - point that the view line is talking about.

15 MS TUOR: Yes.

MR OWENS: In the documents in the Gateway determination report, it had a cone indicating where the view line went over this property. But when you stand at that point, there's very little of the property that you can see. You might be able to see the house, which is right on the southern boundary, which is the highest point. But
20 the view line there is more to the south where, on that plan, where Bells Lane is written further down the bottom, that's actually the view line there. Because that looks down to the south, down along parallel to the mountains. And you can see the foothills of the mountains for quite some way.

25 So yes, there is a very good view there. But this property isn't actually in that view line. Looking at the aerial photo there, as well. On the, at the top there, there's a little bit of orange line. That's the edge of the R2 zoned land in the Kurmond Centre. So this property is one property away from the R2 zone and the Kurmond Centre. On this plan, it's around about 200 metres to the corner there. But that's quite close
30 to the Centre. It's actually closer than a lot of the land identified in the Council Draft Structure Plan for the Kurrajong Kurmond Area, which is this plan here.

On this plan, you can see the subject site in blue, on the middle there. The red outline is the Kurrajong Kurmond Investigation Area. And the green shaded area is the area that Council is proposing as a 4000 square metre lot size. Now, that
35 indicates that in the Kurmond area, Council is proposing smaller lots stretched out to the east along Bells Line of Road, for over a kilometre. But there's little to none to the south and little to none to the west, there.

And that would actually, introduce significant ribbon development along Bells Line of Road. And the Centre or the small Neighbourhood Centre in Kurmond would be
40 very difficult to access from those properties. Because you can't walk along the left, the southern side of Bells Line of Road, because of the topography and the slope there. There is a path on the north side of Kurmond – on Bells Line of Road. So that would mean any people along her that want to walk to the shops would have to cross the road, walk up the road, and then cross the road, again.

Now, Bells Line of Road is a major mountains crossing. And that, having development doing that, ribbon development along there, and people crossing the road would be a pretty core planning outcome. But, also, those lots going along to the east, along Bells Line of Road, would require multiple vehicle access points
5 along Bells Line of Road. And that's contrary to the Transport for New South Wales and RMS Plans that have policies to limit vehicle access to the road.

So in reality, where the subject site is there in the blue, a little bit to the south along Longleat Road and a little bit to the west, would be most consistent with the synopsis of the Rural Land Strategy that Council has released, that is suggesting that, "These
10 village centres should be consolidated and enhanced." So looking at that plan, Kurmond isn't actually being consolidated, it's being stretched out along Bells Line of Road. So it would actually be a better planning outcome to include land like the subject land and a little bit around to the west and south there, around the centre and as the smaller lots and, then, gradually increase out.

I'm certainly not suggesting that Kurrajong and Kurmond should be joined. They're two separate villages and they shouldn't be joined. But I don't think Kurmond should be stretched out that way. Just the final thing here is that's a subdivision plan that was included in the 2016 proposal. And it was included just to indicate that a subdivision is possible. But it's not the final layout. And it was Council's policy, at
20 the time, not to adopt those layouts because you can't adopt a subdivision layout in the absence of the proper assessment information.

And that assessment information was always intended to be completed by the owner after the Gateway determination was received. So this layout is, obviously, open to be amended in some way to accommodate any recommendations from studies. But
25 the proposed minimum lot size of 4000 square metres is actually in clause 4.1D of the Hawkesbury Local Environment Plan 2012 which is the minimum lot size for on-site effluent disposal in the Council. So that's where that 4000 square metres has come from. But if you look that this subdivision plan, they're all over that. They're all larger than that except for the bottom one marked 11, that's only just over it.

But they're still much larger than that. So there is scope to change those. And, obviously, an effluent disposal report or geotechnical report would be required and that would dictate the lot sizes properly. So it's, really, looking at, I suppose, what my main point here is that this application has been with Council, been bounced
35 around for four years, now. And nothing much happened for a couple of years. And then, it's just suddenly been reported to Council and sent to the Department of Planning.

I agree that it's an old plan, it needed a bit of updating. And I have tried to do some of that in the application for a review. But if it was sent back to the applicant to update, we may not even need to have a meeting such as this and it may have gone
40 through the Gateway determination. But it's really looking at the context to this, the strategic merit. It's consistent with what's in place at the time it was lodged. It's still consistent with what's in place from Council. It's not inconsistent with the State policies. And there's general consistency with the direction that Council is going in their Draft Plans, as well.

So I just wanted to make those few points. And if there are any particular questions or anything about the proposal, I'm happy to deal with those.

MS TUOR: Yes. So just, the Hawkesbury Residential Land Strategy 2011, what does that actually say about this land?

5

MR OWENS: Well - - -

MS TUOR: Or how to you – what do you draw from that as being consistent?

10 MR OWENS: Well, with that Strategy, it initially says that, “Rural residential development will be investigated in areas surrounding a neighbourhood centre or larger, a rural village, within about 1 kilometre, as long as development is within the capacity of the services for that centre.” So it has left it very vague like that to be flexible because of the topography in the areas and the vegetation. And, also, there
15 were a couple of various villages in the Hawkesbury that have different degrees of services. So Kurmond is quite a small one. Kurrajong is much – is larger. So it allows that flexibility there.

Now, that ended up creating confusion. And I'm speaking from experience, because
20 the confusion was directed to me, at the time. So a way of – this area, the Kurrajong Kurmond Area was under pressure, at the time. So we developed, instead of using that generic criteria, we drew the lines around Kurrajong Kurmond, and that's that redline there. And said, “This is where rural residential should be looked at.” And that was adopted by Council to say, “Okay. We will look at in there and we will do
25 the investigations in there.

So it's still the case – and that redline map there is essentially the Hawkesbury Residential Land Strategy 2011 Investigation Area for Kurrajong Kurmond. So it's within that area. And that greener area is a draft document that Council has placed on exhibition. And it went back up to Council just recently and Council has deferred
30 it. So they haven't adopted that, either. So that's why I'm calling back to that Residential Land Strategy. Because there's no certainty in the updating or the upgrading of the strategic direction. But, as you can see, it's still within the same – it's still heading in the same direction. So that's why the Residential Land Strategy is being pushed by me.

35 MS TUOR: All right. So just so I understand, there was the 2011 Hawkesbury Strategy that says, “Investigate rural residential around your villages.”

MR OWENS: Yes.

40 MS TUOR: That investigation was carried out in relation to Kurrajong and Kurmond by the Kurrajong Kurmond Structure Plan.

MR OWENS: Yes.

MS TUOR: That's been exhibited and the latest status of that is it's on hold while Council deals with its Rural Land Strategy and its Residential Strategy?

MR OWENS: Yes.

5

MS TUOR: And its Local Planning Strategic Strategy. And as I understand, the Housing Strategy has been exhibited?

MR OWENS: Yes.

10

MS TUOR: But - - -

MR OWENS: But I don't think it's gone back to Council, yet.

15

MS TUOR: Yes. And the Rural hasn't been exhibited?

MR OWENS: That's correct, yes.

20

MS TUOR: So in terms of consistency with the Housing Strategy, what does the Housing Strategy that has been exhibited say about rural residential in your area?

25

MR OWENS: It doesn't, actually. It deals more with urban residential areas. So it's looking at infill development from around Windsor, Richmond, extension of the areas in Wilberforce and a little bit around Richmond. But it doesn't actually say much, if anything, about rural residential.

MS TUOR: But is that on the basis that it's not considered that rural residential is needed for increasing densities in the area? Is that - - -

30

MR OWENS: Well, it's - the Housing Strategy has been prepared in accordance with the Department's Guidelines and the review of the LEP. And it's focusing on the dwelling targets. And the dwelling targets in the, from the District Plan are focused on urban housing. These proposals, as I've said in the request for a review, it's got nothing to do with trying to meet targets, district targets or larger targets.

35

It's, simply, dealing with a local demand.

And that's where I think the Residential or the Rural Land Strategy would come into place, I assume, that Council is working on.

40

MS TUOR: Okay. So then, going back to the District Plan, which talks about, has objectives for rural lands, my understanding from reading your information is that you say that, "This isn't agricultural land, etcetera, etcetera. And therefore, to some extent, those Strategies are not relevant to this." Is that the correct?

45

MR OWENS: Well, that, that's correct. If you look at that aerial photo there, it might look like a lot of paddocks and things. And it is. It's a lot of paddocks with more hobby farm or domestic animal grazing. It's not agricultural land, in this area.

Because it's too close to other areas of residential. And, in this plan, it's very close to the R2 zone in Kurmond and, also, in Kurrajong. So really, the agricultural aspects here would be to the south. There's a couple of orchards in the Grose Valley area. Or further down towards Richmond onto the flood plains where the soil's a bit more fertile.

There are rural activities here. But it's, certainly, not agricultural land.

MS TUOR: In our discussions with Council yesterday, in discussion about agricultural land, they also said that as part of the work that had been done, there had been a visual analysis done and it had four different character types and that this area was identified, I think, as being a certain character type. I'm just looking for it:

pastoral valley character type

MR OWENS: Yes.

MS TUOR: And therefore, their opinion about it, it didn't necessarily have to be productive agricultural land. But it was contributing to the, sort of, character of the landscape character of "pastoral valley". And to achieve that or maintain that it needed a certain area of site area, allotment area - - -

MR OWENS: Right.

MS TUOR: - - - to achieve that character. So have you got any comments on that?

MR OWENS: Well, some of that relates back to my comment about the view lines. That the view lines, there was a number of locations where they took photographs and identified views to establish that character and why that character was there. I agree that the area has a number of scenic benefits. And pastoral scenes are the character in the area. But this land, as I said, falls – the southern boundary is on the ridgeline and then, it falls to the north. So any areas where you would view that from, you can't actually see the property.

So I'm not suggesting that because you can't see it, just let it do whatever it likes. But you do have to look at why, why would you allow development in some areas and not in other areas? So I don't think any development in this, on this land, would actually impact that pastoral valley character. Because, when you stand there now, the things that you can see are all the houses that are along the roads on the left-hand side there, along that lane where Bells Lane is shown on that aerial photo. That's all the ridgelines. So any houses that would be developed on this property would be lower and not visible from the areas where the character assessment would have been taken from.

MS TUOR: All right. I think, you've addressed it to some extent. But the next item on the Agenda was:

The level of detail in the proposal.

So is there just, anything that you wanted to add in relation to that?

MR OWENS: Well, it's agreed that more detail is required. . The necessary studies are, certainly, required. And I, certainly, wouldn't suggest that they're not. But it is a planning proposal. It's not a development proposal. But you do need enough information to be able to make a reasonable decision through the Gateway. And if
5 you look at that aerial photograph, there isn't enough vegetation or other impediments that would stop a reasonable Gateway decision to be made subject to the various studies being done.

Now, that's what Council resolution has said, twice, said that in 2017 and also last year, in September. And that was the advice that was given to the applicant at the
10 time in 2016 where enough information was provided to make that in principle decision. And then, that other work would need to be done prior to the finalisation of it.

MS TUOR: And in terms of the information provided in relation to the Strategic Framework, you rely on it being consistent with the framework that, well, existed
15 when you lodged your Planning Proposal supplemented by the additional information that you've provided with the - - -

MR OWENS: Supplemented by that, yes. There certainly wasn't enough in it, in the 2016. There was at the time. But if you're assessing it under the Controls now, under the Strategic Plans now, the supplementary information I've provided indicates
20 that there is consistency there and it's not inconsistent with it.

MS TUOR: All right. And then, did you wish to talk about just the merits of the propose lot size? Because I know in your – or note that in your supplementary
25 information you have put forward an option of four lots as opposed to the five lots that's proposed. So did you wish to comment on anything in relation to the lots sizes?

MR OWENS: Well, the lot sizes, certainly, wouldn't go lower than 4000 square metres. The land has the opportunity to provide a variety of lot sizes, from looking
30 at it. The lower points here the dam is and the northern boundary, would have an opportunity to be a larger lot to enhance the vegetation along the drainage sign there. But that would, those sorts of recommendations would come out of those additional studies.

35 So there is opportunity to, you know, the five lots is the ideal one. But if the studies find that, "That's too many lots." It's going to affect the character or the environmental considerations, then, the lot yield would be reduced slightly - - -

MS TUOR: And what about - - -
40

MR OWENS: - - - to accommodate those.

MS TUOR: - - - Council's, when it recommended, the Council when it recommended that the planning proposal go forward, they said, one hectare as being

the minimum lot size? And, I think, that's come out of their visual analysis and studies etcetera, etcetera.

5 MR OWENS: Well, that's what I was – the comments that I was saying about this plan here.

MS TUOR: Yes.

10 MR OWENS: The, I can understand and support the principle of larger, of smaller lots around the centres. But at Kurmond there, that concerns me that it's going to actually create a ribbon development and it's not going to actually meet that sort of requirement. So this subject land, possibly, one or two next to it, to the west. And then, Longleat Lane, I'd prefer looking at the 4000 square metres to be around the centre. And that, by default, would end up constraining the centre, and it won't get
15 any larger. I would get away from the ribbon development.

But also, if you look at that plan on the right-hand side, you've got a road there, Slopes Road. Just inside that red area, there's two lots that are white. Those two lots have actually been approved, already, for lots that are smaller than one hectare. But
20 Council is identifying them as one hectare. So it's interesting, I'm not really sure why they've put that there. I would assume that if they're going to mark out where lots of certain sizes should be, you would take into consideration what's there already, as well.

But, I think, those lot sizes are too small, too far to the east. And they should be
25 brought back around where this subject land is and a little bit more to the west.

MS TUOR: All right. I think, they're my questions. Lindsey, did you have any questions that you wanted to ask, or anything that needs clarification?

30 MR L. BLECHER: Thank you, Annelise, I'm fine.

MS TUOR: And Jane, anything from your end?

MS J. ANDERSON: Nothing from me, Annelise. Thanks.

35 MS TUOR: All right. Well, I think, I didn't have anything further to ask. Did you have anything you wished to add?

MR OWENS: Only if there's any additional questions, I would welcome being contacted about that. It's a little bit, I came into this quite late, to do this request for
40 a review. And, really, if Council – looking at Council's report of September it was suggesting, actually, to update this. But no one actually contacted the landowner about that. So I think, discussions with the landowner, applicants, and the concerns Authorities would end up producing better outcomes, rather than having these sorts of meetings, which takes up a lot of time for a relatively small matter.
45

MS TUOR: All right. I think, these are all going to the courts, aren't they? Isn't that the next proposal?

5 MR OWENS: Well, I always – when I was there, I always said, “Why can't we work it out before going to the courts?”

MS TUOR: Mmm.

10 MR OWENS: So that would be a much better way of doing that. And that's what we're trying to do here is flexible with the lot size. Obviously, it would have to cover costs and things. But the landowners', the land's too big and they have a family that need – they can divide it like that, and it's possible.

15 MS TUOR: All right. Well, thank you very much for your time.

MR OWENS: Okay.

MS TUOR: We're meeting with the Department later in the day. And - - -

20 MR OWENS: All right.

MS TUOR: - - - I think, our deadline to get this done is towards the end of the month. So - - -

25 MR OWENS: All right.

MS TUOR: - - - we'll be trying to get it done as quickly as possible.

30 MR OWENS: Just one or two questions. Does the Commission actually have a public meeting? Or is just an advice back to the Department?

MS TUOR: With something like this it's just – there's no public meeting.

35 MR OWENS: Yes.

MS TUOR: It's just we're having a meeting with the Council, yourself, and the Department.

40 MR OWENS: Yes. And then you just – your advice goes back to the Department?

MS TUOR: Yes.

45 MR OWENS: Yes. Okay. All right. That's fine. That was the main thing. That's what I assumed would happen. But I just thought I'd ask.

MS TUOR: Yes.

MR OWENS: Okay.

MS TUOR: All right.

5 MR OWENS: All right.

MS TUOR: Thank you very much.

10 MR OWENS: Well, thank you for the opportunity.

MS TUOR: Bye.

MR OWENS: Bye.

15 MR BLECHER: Thank you. Bye.

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[1.41 pm]