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## TRANSCRIPT OF PROCEEDINGS

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O/N H-983088

### **CITY OF PARRAMATTA COUNCIL**

### **RECORD OF LOCAL PLANNING PANEL MEETINGS**

**PANEL MEMBERS:**

**DAVID LLOYD QC  
ROBERT HUSSEY  
RICHARD THORP  
IAN GILBERTSON**

**COUNCIL:**

**LIAM FRAYNE  
DENISE FERNANDEZ**

**LOCATION:**

**RYDALMERE OPERATIONS CENTRE  
316 VICTORIA ROAD  
RYDALMERE, NEW SOUTH WALES**

**DATE:**

**3.31 PM, TUESDAY, 16 APRIL 2019**

MR LLOYD: Ready to go?

MR .....: Ready to go.

5 MR LLOYD: Ready to go. All right. Okay. It's ready to go. All right. I think we  
can start the meeting. I formally declare this meeting of the Parramatta Local  
Planning Panel open. In doing so, on behalf of the council, I acknowledge the  
Burrumattagal clan of the Durag, the traditional custodians of Parramatta, and pay  
10 respects to the elders both past and present. I should say that this meeting is being  
recorded. The recording will be archived and available on the council's website. All  
care is taken to maintain your privacy, however, if you're in attendance, you should  
be aware that your presence may be recorded. Next, our apologies. There are no  
apologies. It is usual in opening these meetings for us to introduce ourselves. Each  
15 of us will introduce ourselves. I'm David Lloyd. I'm a lawyers; I'm a QC with a  
practicing certificate; and a former judge of the Land and Environment Court; I'm a  
former acting judge of the Supreme Court; I'm currently a professor of law at  
Western Sydney University. Mr Hussey.

20 MR HUSSEY: I'm Rob Hussey, an engineer and planner; former commissioner  
with the Land and Environment Court for over 20 years; previously other senior  
consulting and other local government experience.

25 MR GILBERTSON: My name is Ian Gilbertson. I am a retired accountant, and  
I'm the community representative on this panel.

MR THORP: My name's Richard Thorp. I'm an architect. I was a commissioner  
for the Planning Assessment Commission for six years, prior to getting involved with  
some of these panels, but I'm retired from my firm.

30 MR LLOYD: All right. And next are declarations of interest. Declarations of  
interest forms have been signed. There is one declaration of interest in relation to  
item 5.5. That's the development at 15 Anthony Street, Carlingford by Mr Hussey,  
who had a previous involvement with that matter in his capacity as a commissioner  
of the Land and Environment Court, and he will take no part in the determination of  
35 that matter. So with that, I can move straight onto the first item, 5.1. This is the  
modification application for the development at 21 Hassall Street, Parramatta. We  
have notice of one person who wishes to speak, Mr Mark Gemekis. Gemekis, is he  
here? It doesn't matter if he's not, because the panel inspected the site of this earlier  
in the day. In fact, we inspected all the sites earlier in the day, and we are happy  
40 with the recommendation to approve the modification in this case. It's a minor  
modification where there is the removal of a fire booster, and a substation, and that  
space would be occupied by the retail space on the ground flood. It's perfectly  
acceptable, and the determination is up on the screen, and the reasons for  
determination are also up on the screen, and that decision is unanimous.

45

Next are items 5.2, 5.3 and 5.4. These are the proposed strata subdivision applications for various buildings within the Parramatta Square development. Again, the panel is unanimous in accepting the recommendation to approve in each of those cases, subject to the amended conditions that have been agreed between the  
5 applicant, developer and the council. So that is the determination in each case. That's 5.2, 3 and 4. So we can move straight onto 5.5. This is the development of 15 Anthony Street. Mr Hussey has a potential conflict of interest, and he will leave. 5.5 is an application for demolition of an existing dwelling house, and the construction of a new dwelling house in its place in land that is flood-prone. We have looked at  
10 the proposal. The proposed new dwelling is to be built with a floor level above the flood level, and will not interfere with the flood waters. There is no one registered to speak, and the recommendation is to approve the application, subject to conditions. The panel is unanimous in agreeing with that recommendation, and the determination is, again, up on the screen.

15

MR THORP: .....

MR LLOYD: Yes. And the minutes should record the fact that Mr Hussey has absented himself from the determination of item 5.5. All right? And we can get Mr  
20 Hussey back. Can someone grab Mr Hussey and get him back here? We need a ..... Thank you. We now move onto item 5.6. This is an application for modification of an approved construction for a dwelling house. There was a condition imposed requiring the retention of a peppercorn tree within the front setback. The proposed  
25 modification is to remove that tree. We have three speakers who wish to address us on this topic, and we will hear each of you in turn. Is Margaret McCartney here? You'll have to take a seat over there, because you have to be recorded. For the record, your name and address, please.

MS McCARTNEY: Yes. My name's Margaret McCartney. I live in Forest Grove,  
30 Epping. I'm an Epping resident.

MR LLOYD: All right. You have three minutes precisely.

MS McCARTNEY: Good. Okay.  
35

MR LLOYD: And you know that the recommendation here is to agree to the removal of the tree and its replacement by another tree of similar species.

MS McCARTNEY: A blueberry ash. Yes. Sure.  
40

MR LLOYD: All right.

MS McCARTNEY: I'm really speaking in favour of keeping trees in Epping. I speak in favour of retaining this tree. Whenever I walk along this street, I've always  
45 enjoyed looking at this tree. The planning panel did not support the removal of this tree in the past, and nor should you do so now. The subsequent heavy pruning of the tree should not negate the original determination. Allowing the tree to be removed

now would set a precedent, and is likely to negate any future determinations in which trees are to be retained. It shows how easy it is to ignore this part of a determination. Hopefully with time, the tree will recover. Can you please tell me what research and evidence the Parramatta Local Planning Panels are using to determine tree removal  
5 quotas each year? Can you please advise how many tree removal numbers the planning panel has approved, and are progressing in relation to this quota?

Also, do you monitor this in conjunction with other tree removal in the council area, such as though the TAs and the other DAs, and, not to mention, the public tree  
10 removal. I'm aware of the planning panel having given approval for the removal of 14 trees at 32 to 34 Boronia Avenue, which is for the eye hospital. The next item will be 5.7, and it will be for the removal of 21 trees. That's a total of 35 trees you'll be approving for removal in just one month. This all adds up. So today we're talking about one tree, but it's part of 35 trees, or 36 trees. I've calculated that about  
15 two and a half to 3000 trees have been approved for removal in the city of Parramatta Council local government area, and this isn't a sustainable level, and it's affecting Epping, our leafy suburb. Yes, this tree will be replaced, but a blueberry ash is not a peppercorn tree. It's not the same and it's not the equivalent, and I happen to be attached to this particular tree.

20 This peppercorn tree is just one of the many trees being removed, as I say. And it's a tree which is part of a community of trees. It's a tree which is part of a community. The removal of this tree represents the removal of our community's identity, and part of our community's soul, as do other trees. The Greater Sydney Commission district  
25 plan promotes maintaining the character of suburbs. I'm tired of reading council reports that say DAs should be approved because they will be compatible with the emerging and planned future character of the area. And I've read that in at least two reports, and I haven't read too many reports, so it's coming up very regularly, I think. Especially when there is no evidence of community consultation about these plans.  
30 Any consultation of which I'm aware supports keeping trees.

I want to the Epping planning review and I remember clearly, Amanda Chadwick said one time, if there's anything she wants to say to summarise everything she's  
35 heard, it's trees, trees and trees, and I would imagine that would be on a public record somewhere. I would hope so. Removing this tree and other trees, which contribute to making Epping livable and sustainable, which is what the Greater Sydney Commission tells us we're meant to have. So removing this tree does not support the leafy character of our suburb with which residents identify.

40 MR LLOYD: Thank you very much. Now, is Mr Trivedi here? Mr Trivedi? Please take a seat. And for the record, your name and address, please.

MR TRIVEDI: Yes. .... Trivedi.

45 MR LLOYD: Where do you live?

MR TRIVEDI: In Epping.

MR LLOYD: All right.

MR TRIVEDI: Yes.

5 MR LLOYD: Proceed. Three minutes.

MR TRIVEDI: Yes. Good afternoon. I present my compliments to PLPP chairperson and the entire PLPP team and the staff of Parramatta council who are associated with this meeting. On 20 August 2017, the DA application was lodged for  
10 the construction of a double-storey dwelling with a ..... double garage. The application was approved on 14 December 2017 by the honourable IHAP, now the Parramatta LPP. The three in the discussion is a peppercorn ..... and the branches have been and will continue touching the dwelling, and the roots are under the driveway and the front façade of the pillars. Because of this, the construction of the  
15 approved driveway and approved pedestrian path is genuinely not possible.

There is a large existing ..... near in the front yard which gives very appealing streetscapes and flora and fauna. However, ..... will confirm that we'll plant a mature ..... specimen, as per the council guideline, in the front setback of the house, with  
20 many more ..... little container side. It will be blueberry ash tree, which will be adding not only flora and fauna, but also to the streetscape of the Dorset Street, which I have been travelling around every day. It is very important to talk about that we are looking forward to develop a good neighbourly relations here. We thank PLPP team and Parramatta Council for the time given to me to represent our genuine  
25 request. Thank you so much.

MR LLOYD: Thank you very much. Yes, Tom Hare, please. Tom Hare? Again, your name and address, please.

30 MR HARE: My name is Tom Hare. I live in Gymea Bay.

MR LLOYD: And you have three minutes also.

MR HARE: Thank you.  
35

MR LLOYD: Good. Starting now.

MR HARE: I was asked to do the original arboriculture impact assessment on the tree in front of the property, a peppercorn tree.  
40

MR LLOYD: Are you an arborist?

MR HARE: Yes. Yes. I'm an AQF level 5 arborist. I've been an AQF level 5 arborist for about eight years, and within the tree industry for about 20 years.  
45

MR LLOYD: All right. Proceed.

MR HARE: So I went to have a look at the site and inspect the tree. I noted the condition of the three had poor health – it was showing poor health; it showed significant impacts from the heavy pruning to clear the building and scaffolding; it also showed large structural roots which extend out towards and within the alignment of the proposed driveway. And, effectively, the tree was already showing some signs of decline. The proposed and approved driveway for that area can't realistically be built with that tree there. It's my opinion that the tree, as such, has suffered significant impact, and the impact imposed by the driveway will just further that and speed up the tree's decline. So, yes, my recommendation was to remove that tree and replace that tree with a suitable specimen which will beautify the area for the next 40 to 50 years as opposed to watching a tree, which has already been badly impacted, just slowly decline further.

MR LLOYD: All right. Thank you very much.

MR FRAYNE: Excuse me. Sorry, Chair. There's another gentleman who wishes to speak for this particular .....

MR BROWN: I simply replied by email .....

MR LLOYD: No, no, you're not being recorded unless you sit there.

MR BROWN: Thank you. Thank you. I replied by email, but it didn't through, apparently. Happened last time as well, but maybe it's my technical disabilities, or inabilities. Anyway, my name's Ray Brown. I live in 50 Dorset Street, which is on the eastern side of the proposed development, and I wish to speak against the demolition of the tree.

MR LLOYD: Yes.

MR BROWN: And if I can say that the comments that the arborist just mentioned probably indicate that not enough care was taken during the building process, because the PLPP committee decision that the tree must be retained, surely, you would have thought that the building operation would have taken great care as to ensure that there was no damage done to the tree in that building process. That did not occur. Dumpsters were dumped within the council guidelines of the tree. The protection wasn't there. At once stage, the fencing supposedly protecting the tree was against the tree, so there were all sorts of difficulties there. Excuse me. And I suggest, knowing the conditions, that the tree had to be retained, then the driveway could have been designed appropriately to retain the tree.

It seems as if we got it the wrong way around: the tree to be retained was the decision, and what we've got is the driveway being the determinant of whether the tree stays or not. If I could just go to my brief account. When the approval of the development of 48A was given, the IHAP Committee decreed that the building should be situated nine metres further back from the street, and that the 40 year old mature, healthy peppercorn tree should be retained. A wise decision. The building

took place, and the tree was severely pruned in order to place scaffolding, and, as I just mentioned, dumpster bins and all sorts of building materials, including the photo on this page here, provided by the arborist, actually shows that even the toilet was in within the zone of the tree, so it wasn't really protected.

5

In spite of this treatment, the tree appears in good vigour, and good new growth has come where the severe lopping took place to enable a scaffolding to be erected. And you can see the photo in that report, and it contributes positively, as we've mentioned earlier, to the streetscape and the amenity. And I don't think this lady – sorry, Ms McCartney, is it – is the only person who appreciates walking along that part of Dorset Street and enjoying that walk. It's a lovely walk. The developer commissioned a report suggesting that the tree has low retention value and recommends cutting it down. When I look at the star system from the report, it seems to me to tick the high retention categories. It seems to tick it's in good condition vigour. Number 2, it seems to be of a form typical of the peppercorn species; it's of substantial age: it's more than 40 years old. It's been there since we moved in; and it's visually prominent, and makes a positive contribution, as I said, to the local amenity. The tree's growth above is unrestricted, but if a concrete driveway goes in, then the root system will surely be damaged. And so I what the essential thing to do is to look at another way of doing a driveway - - -

20

MR LLOYD: That's your three minutes, I'm afraid.

MR BROWN: - - - thank you – which doesn't interfere with the tree itself.

25

MR LLOYD: That's your three minutes.

MR BROWN: That's it? No more?

30

MR LLOYD: Yes. That's it.

MR BROWN: Thank you.

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MR LLOYD: Thank you. Yes. All right. And there's no other speakers on that matter? All right. ....

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45

MR HUSSEY: I think there's probably just a few comments to make. We've got to deal with this application that's before us now, and that seems to be assessed, and the assessment is that that tree is in poor condition. It doesn't seem to have had the level of significance that Ms McCartney recognised or she appreciates. I think that maybe it's food for thought in the future. There used to be the ability to have a "tree significant" register, significant trees that are unique in an area, and they were given a higher retention value. That's not the case with this peppertree, so, on balance, I'm prepared to accept what the planner says, that it's in poor condition and it's not compatible now with the house that's been practically completed, and it will interfere with the driveway, and it's longevity, certainly, would be compromised. So that ..... a 40, 50 year old tree, all trees, in the area need regeneration, so hopefully this

replacement tree will work as a replacement as the arborist said. So I go along with the recommendation.

5 MR THORP: I'm supporting the recommendation also, because I believe the proximity of the tree to the driveway means that it will forever require pruning and will probably deteriorate further. And the chance to have a new tree of a shape and size that doesn't need pruning adjacent to the driveway, I think, is a better solution.

10 MR GILBERTSON: Yes. I'm going to support the recommendation too. I appreciate, being a community representative, that there is concern about the use of the trees, but I'm afraid, in my opinion, having respect to the site, that I think the tree has suffered and will only continue to suffer, and it will not be enhancing anything, and the chance to restore the vestige with a new tree would be the better decision, so I'm prepared to support this recommendation.

15 MR LLOYD: Well, the decision is unanimous, because I agree. We inspected the tree this morning, or this afternoon. The tree is in a poor state, to say the least, and its life expectancy has been reduced. Its removal will have a minimal environmental impact if it is replaced by another mature tree of a suitable species, and I'm going to go on with the recommendation, namely, to approve the application, to modify the consent, and have the tree removed and replaced by another, more mature, suitable tree.

25 MR GILBERTSON: Mr Chairman, can I just add one other comment to that. Just because I'm voting to remove this tree, and agree with this recommendation, doesn't mean that I will take the same recommendation on future applications and trees.

30 MR LLOYD: All right. So the recommendation is adopted, and their determination – the formal determination is up on the screen, and it is unanimous. So with that, we can move to item 5.7. This is the proposed childcare facility at 21 to 23 Norfolk Road, Epping. We have noticed that there is a number of speakers on this item, and there is a recommendation here for refusal. We also note that an appeal has been lodged with the land and environment court, and we have received, only today, an application from the applicant for deferral. Is Geoff Mead here? No. Who's here for the applicant? Is anyone here from the applicant?

40 We have a formal request from the applicant, because the applicant wishes to rely upon revised architectural drawings, revised aboricultural assessment, revised traffic and parking assessment, a flood review letter, revised landscape plans and revised storm water details. This only got to us today. We are not prepared to adjourn it; we're prepared to determine the matter today. The recommendation is for refusal. We are happy to go along with the recommendation, and we are prepared to add an additional ground of refusal based on parking and traffic. If anyone wishes to speak against our preliminary decision to refuse, we will hear from you. Does anyone want us to change our mind?

45 MR .....: No.



MR LLOYD: No. All right. Well, the decision of the panel is - - -

MR HUSSEY: Mr Chairman, can we just clarify the parking one, that the  
5 consultant's report should deal with the impact on on-street parking, and the  
efficiency of the basement carpark in terms of turnover and utility.

MR LLOYD: Well, that's noted, but there's no one here from the applicant.

MR HUSSEY: Yes, but can the written - - -  
10

MR LLOYD: It can be noted.

MR HUSSEY: - - - reasons ..... contain those. And also, on the flooding one, can  
15 we be given details of the flood modelling, to detail where the planning flood levels  
are; whether there's a likelihood that the basement carpark will be flooded; and will  
any works be necessary to the existing open channel to minimise flooding onto the  
adjoining properties, given the capacity of the existing culvert under Dorsey Street.  
And further, do any arrangements have to be made to cater for the overland flow path  
along the rear boundary.

MR .....: Is it possible to comment on any of that?  
20

MR LLOYD: If you are opposed to those suggestions, we will hear from you.

MR .....: No, no. Certainly not opposed.  
25

MR LLOYD: All right. There will be an additional ground of refusal in addition to  
those listed in the report, to read as follows: "The parking arrangements and traffic  
30 impact, in particular, having regard to the proximity of Epping Public School, are not  
acceptable". This would become ground 7. Ground 7. All right. And the additional  
comments of Mr Hussey will be noted in the minutes. So that's the determination.  
It's unanimous. Refused. All right. The final item, and you don't have to wait  
around – the final item is the planning proposal, item 6.1 – the planning proposal for  
35 an amendment to clause 4.6 at Epping Town Centre. The recommendation is to  
remove the ability to utilise clause 4.6 variations in the Epping Town Centre. And  
we are prepared to recommend it to council to adopt that amendment. And, again,  
the panel is unanimous in its determination to adopt the recommendation, as in the  
assessment report. And that completes the addenda. I can formally close the  
40 meeting. Thank you for your attendance.

**MATTER ADJOURNED at 4.00 pm ACCORDINGLY**