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CITY OF PARRAMATTA COUNCIL

RECORD OF COUNCIL MEETINGS

PANEL MEMBERS:

**MARY-LYNNE TAYLOR
WARRICK McLEAN
DAVID JOHNSON
RICHARD THORP**

LOCATION:

**RYDALMERE OPERATIONS CENTRE
316 VICTORIA ROAD
RYDALMERE, NEW SOUTH WALES 2116**

DATE:

3.50 PM, TUESDAY, 20 NOVEMBER 2018

MS M. TAYLOR: Good afternoon, everybody. Sorry to hold you up, but a few places to travel to and I guess there was a bit of a traffic problem. The panellists are all here today; there are no apologies. The panel are as follows, and I'll get you to introduce yourself. Rick.

5 MR R. THORP: Richard.

MS TAYLOR: Expert member.

10 MR THORP: Richard Thorp. I'm an architect, have retired from my firm and spend my time either doing planning panels or playing golf.

MR D. JOHNSON: He prefers - - -

15 MS TAYLOR: What are you doing today?

MR THORP: One well, the other badly.

MS TAYLOR: On my left - - -

20 MR THORP: The golf's the bad one.

MS TAYLOR: On my left - - -

25 MR JOHNSON: Dave - - -

MS TAYLOR: - - - David.

MR JOHNSON: David Johnson. I'm an environmental scientist, former consultant in that area, former Acting Commissioner of the Land and Environment Court, former member of the Planning Assessment Commission, currently on three other – two other planning panels, and I don't play golf much at all.

30 MS TAYLOR: Our fourth member is the local member.

35 MR W. McLEAN: Thanks, Mary-Lynne. Warrick McLean, I'm a resident of Epping.

MS TAYLOR: And I'm the acting chair today, Mary-Lynne Taylor, and I'm a planning lawyer and I sit on a lot of panels. So we'll do these items as they come on my list, which starts first with 132 James Ruse Drive. Do we have anybody here to speak to us on this matter?

40 MR J. WOOD: Yes.

45 MS TAYLOR: Right. Okay. What would you like to say?

MR WOOD: Not much. So Jonathon Wood, planner on behalf of the applicant. We're just here if there's any questions that the panel – the panel may have. We've read the report, read the conditions. We're happy with the content of those conditions. We've discussed that and confirmed that with the council staff as well.
5 So we're simply here to answer any questions, and we seek that you endorse the recommendation that's in front of you today.

MS TAYLOR: Well, I have – the first question is why should there not be a trial period for the extended hours? What time does Hooters close?
10

MR WOOD: So I think at the moment Hooters closes about 1 o'clock.

MS TAYLOR: Yes, and you're going to stay open till 4.

15 MR WOOD: Correct. So I don't - - -

MS TAYLOR: Yes.

MR WOOD: So just to explain some of the context, at the moment there's the Collector Hotel in Parramatta. This is actually proposing a transfer of the licence from the Collector Hotel to this premise, so there's actually a history of operations with the Collector Hotel. Dan O'Hara from the O'Hara Group, he actually operates the Collector Hotel and five other – five or six other pubs across the Sydney region, so it's not as though we're a new operator that's seeking to, sort of, come in and –
20 and we don't have a good history of management.
25

The management plan that we've put forward as part of this application is actually the management plan utilised for Collector and customised to meet the requirements of this particular site. We've dealt with licensing police through the DA, and even before the DA, to talk through the – the transfer of the licence and been through the whole series of, sort of, design iterations that come up with what works for the proposal. So I guess I say in relation to trial period hours, I think they're suitable where you have an – oh, sorry – a new operator to a new premise that essentially don't have a good history of operation.
30
35

Collector Hotel has a very good history in terms of the way that they operate, a good relationship with the licensing police and, to be honest, they know what they're doing so it's not as though we're – we're operating a new premise. It's not some new fandangled nightclub operation that can come in and – and operate for two years and then go bust after causing all sorts of nightmares for the local community and we've gone through all the checks and balances with traffic, with acoustics, going through all those sorts of processes, and we know that there's no objections to the scheme as proposed in terms of the notification to the local residents.
40

45 So on that basis we say that we don't feel that trial period hours are – are reasonable for this particular type of application given – given the context and – and the nature of the operations and the operator, and the operators have to ask any – answer any

questions, I should say – having – about any specific management measures that you want clarity on or you're otherwise concerned by. But as I say, we – our view is that a trial period is – is not our preference.

5 MR JOHNSON: So Jonathon - - -

MS TAYLOR: Not your preference but your opinion as a town planner not necessary?

10 MR WOOD: Correct.

MS TAYLOR: Is that right?

15 MR WOOD: Yeah, not necessary on the basis for the reasons I set out with that historical and lengthy period of operation of the Collector and a series of other pubs across the Sydney region.

MS TAYLOR: Thank you.

20 MR JOHNSON: Sorry, Chair. Jonathon – and this might be a question for Mr O'Hara – just driving past the site there this afternoon, obviously the southern side of the current Hooters operation's got an exterior deck.

25 MR WOOD: Yep.

MR JOHNSON: In terms of smokers, etcetera, is that, sort of, the intended location where smokers would go, sort of - - -

30 MR WOOD: Yeah.

MR JOHNSON: Yeah.

35 MR WOOD: Part of that deck, that the – would be – the north-eastern probably third of that deck would be for smokers. The rest would be outdoor dining - - -

MR JOHNSON: Okay.

40 MR WOOD: - - - there. So there's a big dining area proposed as part of the – a couple of things Collector Hotel is 24 hours at the moment so we're – we're actually reducing the hours when we move over, and we did meet with licensing police a few times, and the last security management plan which has been lodged with council had a lot of input from council and you'll actually see – sorry – a lot of input from the police. The police suggested additional security measures and so forth to ensure that the order of the neighbour is protected.

45 MR JOHNSON: So in terms of the operation of that deck being exterior, that operates through till 4 am?

MR WOOD: Yep. It's – it's proposed, yes. That was covered in the acoustic report.

MR JOHNSON: Yep.

5 MR WOOD: Because that is north facing and it faces the Rosehill Bowling Club
- - -

MR JOHNSON: Yep.

10 MR WOOD: - - - on that side, and one other thing to put in context, the –
McDonald's is 24 hours, BP is 24 hours and the car wash is 24 hours as well.

MR JOHNSON: Yep. Okay.

15 MS TAYLOR: I've read the management plan and I wanted to ask a few questions.
You're having amplified speakers.

MR WOOD: Inside the venue, yes.

20 MS TAYLOR: Right, so – and you've got noise control measures in place.

MR WOOD: Yes, we do. That's – that was covered in the acoustic report.

25 MS TAYLOR: I was concerned about the smokers being on a – a balcony up to 4
am.

MR WOOD: Yes.

30 MS TAYLOR: How are you going to deal with the noise of that?

MR WOOD: That particular balcony faces north and that – north is the Rosehill
Bowling Club and it's just next to James Ruse Drive, and then to the – to the west of
us is the 24-hour precinct of McDonald's, the BP and the car wash, so the acoustic
35 engineer did cover that in their report. And I think just to add to that, too, I think
there's a limitation on the amount of people that can be in the outdoor areas after –
after midnight. It reduces down to a maximum of 80 people across the seating area
and the smoking area, so - - -

40 MS TAYLOR: Thank you. You refer to something called the Cumberland PAC.
I'm wondering what that is.

MR WOOD: Police Area Command.

45 MS TAYLOR: Okay. And high risk events don't appear to be spelled out as to
what they are.

MR WOOD: When we met with the police high risk events are anything that happens at Rosehill Racecourse, the – the big race days, and so the police said their concern is to ensure that the – we have a management plan in place and a culture of being aware of the – the high risk events, more people going to and from the races, that everyone's aware that these are potential high risk events.

MS TAYLOR: A fairly comprehensive plan of management, however being a lawyer I've gone through and read it all and found little mistakes here and there. I think the condition should be that this plan of management should be drawn up to the satisfaction of one of the council officers. Would you have any objection with amending a condition to that effect?

MR WOOD: None not see any

MS TAYLOR: I don't see major changes but I see, knowing what the Cumberland PAC is, knowing how to define a high risk event - - -

MR WOOD: Yep.

MS TAYLOR: I would think it would have been horses crossing the road, you see, so we might have a different idea about what's high risk. So you've got no objection to - - -

MR WOOD: No. No objections to that.

MS TAYLOR: - - - a condition to that effect?

MR WOOD: No.

MS TAYLOR: Okay.

MR WOOD: Could I just make one point on the – the high risk events being race days. We've agreed to a condition that there's no live music, which was – well, sorry – there's – there's now a condition that there's no live music at all but we – we agreed to a condition with the licensing police there was to be no – no live music on race days to – to ensure that – to ensure

MS TAYLOR: I'm having trouble understanding that, why can't you have music on a race day?

MR WOOD: Well, the police suggested it, so we – we – we could add - - -

MS TAYLOR: Too much excitement?

MR WOOD: Yeah, well - - -

MR: Too much of a party

MR WOOD: - - - music can increase the energy levels within patrons.

MS TAYLOR: Yeah. That's something I didn't know. Thank you. Okay. So you're wanting a condition to that effect.

5 MR WOOD: I think there's a condition

MS:

10 MR WOOD: - - - within the current DA conditions.

MS TAYLOR: Any other conditions that you have an objection to?

MR WOOD: No.

15 MS TAYLOR: Right. Okay. Gentlemen, are we in a position to make a decision?

MR McLEAN: Yes.

20 MS TAYLOR: Yes.

MR McLEAN: I think we are.

MR JOHNSON: Yep.

25 MS TAYLOR: Yep okay.

MR THORP:

30 MS TAYLOR: We're going to unanimously approve this application subject to a condition that says no live music on race days and requiring that the plan of management is to be drawn to the satisfaction of the unit manager of planning and traffic. Did I get that right

35 MR WOOD: Development and traffic

MS: Development and - - -

MR JOHNSON: Planning - - -

40 MS: Traffic services.

MS TAYLOR: Development and traffic services. Apart from that, the conditions in the council town planning report. Thank you very much.

45 MR WOOD: Thank you.

MS TAYLOR: Now, item number 2 is 9 Cumberland Street, Epping, which is a dual occupancy. Right. Anybody here to speak against this application? Anybody here to speak in favour of it? We'll leave that one till the end. Then we move to Dorset Street, Epping.

5

RECORDING SUSPENDED

[4.00 pm]

10 **RECORDING RESUMED**

[4.01 pm]

MS TAYLOR: I've now moved to Dorset Street, Epping. Anybody here to speak against Dorset Street, Epping?

15

MR R. BROWNING: Yes.

MS TAYLOR: Right. Would you like to come forward.

20 MR BROWNING: Yes, thank you.

MS TAYLOR: Are you – are you the next-door neighbour?

25 MR BROWNING: My name's Ray Browning. Yes, I live on the western side of number 50.

MS TAYLOR: Yeah. I just didn't get the name.

30 MR BROWNING: Ray Browning, B-r-o-w-n-i-n-g.

MS TAYLOR: Thank you. All right.

35 MR BROWNING: Yes. We opposed the initial application when the – when the meeting was held in – in – in August and there was a condition that the applicant go away and try and do something about the overshadowing of ourselves and – and number 52A, which is immediately to the south of the – of the current proposal, and it seems that the return – that the new design – and I checked with Mr Buzward from the council last week who's looking after the application – but it seems to be only the – the change seems to be that the height of the building has been lessened by about
40 290 millimetres, which is about three per cent and which will virtually no effect on – on our concerns at all concerns of the – of the the appeal in August. And so if it's – I – I just don't understand why such a – a minimal change to the plans has been – has been brought to a resolution. It – it doesn't change the situation for ourselves or number 52A at all, and I don't understand how that acceptable to the
45 – to the committee.

MS TAYLOR: Thank you. Is there anything else you wanted to say?

MR BROWNING: No, thank you.

MS TAYLOR: That's it?

5 MR BROWNING: That's it.

MS TAYLOR: Thank you very much. Now, nobody else here for this – to object to this matter? Is the applicant here? Right. Would you like to come forward.

10 MR R. ALEIDZANS: So my name is Ralfs Aleidzans. So I'm the applicant for development of 52 Dorset Street.

MS TAYLOR: Yes.

15 MR ALEIDZANS: And I just would like to address the panel. I appreciate council's approval for overall support of the development, however they have one of the concerns of the plan is the – the house was designed for a couple of generations, so my family, my young adult children and elderly mother. So therefore we propose having, sort of, a kitchen for – for my mother-in-law and – so the council
20 was, sort of that it would be too big and so we can, sort of, reduce the kitchen to a small kitchen and so that was council recommended for – sort of, accepted that. However conditions they're submitting the kitchen has to be deleted and I'm, sort of confused with why, sort of, suddenly that condition came in place because we're still – mum with us and she independently – sort of meals for
25 herself. And so I just would like to, sort of point as all new designs have, you know, bars and kitchens and butler's pantry so and I cannot been given reason why we can't have that small kitchen as well mum's needs. So that's my point to raise.

30 MR THORP: Could I just ask, where – where were you proposing that the small kitchen - - -

MR ALEIDZANS: In the rumpus.

35 MR THORP: In the?

MR ALEIDZANS: The rumpus room.

MS TAYLOR: The rumpus room?

40

MR ALEIDZANS: Yeah.

MR THORP: I see, where there's a sink.

45 MR ALEIDZANS: There is a single tub sink and appliance and a fridge

MR THORP: And you want something larger than that?

MR ALEIDZANS: No. I want that, whatever the design

MS: We - - -

5 MR THORP: I see.

MS: We condition that they be removed. The proposal is for a dwelling house, not a dual occupancy or a dwelling house with a granny flat, which only allows one kitchen, so that's why we have conditioned that they - - -

10 MR THORP: Yeah.

MR ALEIDZANS: But it's - - -

15 MS: - - - that is to be removed.

MR ALEIDZANS: But it's not dual occupancy there at all.

MR THORP: No.

20 MS: No, no, but you haven't applied for that so we can't allow for it. That's what - that's

MR ALEIDZANS: But I'm design like a and a sort of, dual occupancy. That's why I'm confused and council wouldn't let us - they accepted the first proposal. That's why suddenly council's condition without letting us now they have change that. That's - that's where I'm - sort of, can't understand.

25 MR J. MOY: There's also a few elements - sorry, I'm the planning consultant for the applicant - a few elements or where it - it uses the dual occupancy. There's - there's only one bathroom for four - basically used for all occupants of the house on that ground floor. It's quite an open design. So there's one main entry point on Dorset Street.

30 MR J. MOY: There's also a few elements - sorry, I'm the planning consultant for the applicant - a few elements or where it - it uses the dual occupancy. There's - there's only one bathroom for four - basically used for all occupants of the house on that ground floor. It's quite an open design. So there's one main entry point on Dorset Street.

35 MS TAYLOR: And there's three bathrooms upstairs.

MR ALEIDZANS: Yeah.

MR MOY: Yes, I think they're en suites.

40 MS TAYLOR: So it's a four bathroom house and you're complaining?

MR MOY: No, what I'm saying is the ground floor isn't capable of being used as a dual occupancy, even if that second kitchen is in there. They don't have their separate laundry or entrance

45 MR ALEIDZANS: And there's only one common bathroom there, too.

MS TAYLOR: Can you explain why there was little or no change to the impact on the overshadowing.

MR MOY: Yes. Yes, I can. I just wanted to afford my client - - -

5

MR ALEIDZANS: Yeah.

MS TAYLOR: Thank you.

10 MR MOY: - - - a chance to - - -

MR ALEIDZANS: Yeah.

MR MOY: So what we – as an overview the proposed development is compliant with Hornsby’s controls, their DCP applies in this case, with the exception of a rear setback variation. The reason that’s the case is that there’s significant trees out the front of the site and the consultant arborist required a certain setback distance to protect those trees. Furthermore, the consultant arborist didn’t agree in allowing us to excavate any level for the driveway to bring the house down any further. So we did investigate trying to lower – to lower the house into the ground further but that would have impacted on the tree protection zone. So we – we had to keep the driveway above grade, which effectively set the – the garage floor floor level. So we did look at that. We looked at bringing – reducing the overall height by reducing the pitch of the roof. The roof tile manufacturer advised us that 15 degrees is the minimum profile that that particular tile of roof could have without causing numerous problems.

15

20

25

MR THORP: So could you – what – what degree?

MR MOY: It’s – 15 degrees is the lowest angle for that particular tiled roof, so that’s what we’ve re-designed to.

30

MR ALEIDZANS: From 18 to 15.

MR MOY: In terms of the setbacks, we’re highly constrained. As I mentioned, the front setback we can’t move forward because of the trees. We can’t move away from number 50 Dorset Street to the west because we’re on the corner with Gloucester Road. We’re currently three metres setback from Gloucester Road. Council have also expressed previous concerns about too – too much bulk and scale to Gloucester Road elevation, so we – we – we can’t move away from the western boundary either. So, really, that left us – do we reduce the size of the house. Now, speaking with the family, as Ralfs’ mentioned, there’ll – there’ll be three generations of family living here. They do need the room.

40

MR ALEIDZANS: And the size is already – it’s almost 30 square metres below the maximum size we can have.

45

MR MOY: Yeah, we're – we're closer to 40 square metres under the control limit of 330 square metres. So we're – we're proposing 292 square metres of floor area.

MR ALEIDZANS: Instead of 330.

5

MR MOY: We more than double the requirement for landscape area and we satisfy the site coverage area by some 13 per cent as well. So our argument is that it's really not a – a bulky building for this sized site if we use Hornsby DCP, the guideline. Therefore we – we are constrained with the siting. We can't lower the house any further into the ground, and this family needs a – a house of this size.

10

MS TAYLOR: Did you want to say anything about the width of the garage?

MR THORP: Yeah. The relationship between the proposed design and the house to the immediate west – and I – I meant to ask that owner, is there any heritage status to your house?

15

MR BROWNING: It's mooted. It's on the list for - - -

20 MS: Consideration.

MR BROWNING: - - - consideration.

MR THORP: Right.

25

MR BROWNING: Yeah. So it's listed as – as a heritage

MR THORP: I guess – but we were there this afternoon and looking at – looking at the house from the – the northern side and the relationship to number 50 - - -

30

MR BROWNING: 50, yep.

MR THORP: Right, in particular the – the garage doors seem to be almost out of scale in – in a way and we – we wonder if there's any opportunity to reduce that impact perhaps by moving the garage doors further to the east and bringing the – the wall of the garage back in. I don't think we necessarily would – would ask – or maybe we could – that the living room/dining room similarly take a – maybe a – a metre reduction or – or something.

35

40 MS TAYLOR: I think the story is that we don't feel that the design is a suitable design next to historical property, such as immediately to the west, and that the garage door is – and – and the two storey – the whole of the effect on the historic house next door is overwhelming and domineering and we think that there should be a – a – at least a one metre further setback. I see that the garage is extremely
45 generous and the house has two rumpus rooms, four bedrooms, four bathrooms, a guest room and a very large dining and living areas, so space is not really a problem in this house. So we feel that the design has such an – an overwhelming effect on the

historic nature of the property next door that there needs to be a further setback on the western boundary in the vicinity of one metre.

5 MR MOY: My question is – I do question the historic status of the next door neighbour. We – it's not – it's not listed.

10 MS TAYLOR: Potentially it's likely to be listed so – and in an – an area that has similar homes of that nature so it's part of the character of the area, and we've compared it with new developments in the area and find that this is the most effectively unsatisfactory in relation to the older designs – of all the – the garage designs in the street. We drove – drove up and down and around all the areas so we know what the new development is and we just find that this is too domineering in this area and unsatisfactory and we believe that it will be improved by a setback of one metre from the western boundary.

15 MR THORP: There's one – one other matter that I'd just like to raise with you. You said earlier that any effort to lower the house was impacted by the presence of the trees at the front, but the house floor level is raised up, as is the garage.

20 MR MOY: Yes. So the - - -

MR THORP: Yes.

25 MR MOY: - - - the – the arborist suggested that we do not excavate at all for the driveway. It has – it must remain at grade or above grade.

MR ALEIDZANS: Above the roots

30 MR MOY: And the garage floor level had been brought down to facilitate a garage – sorry – a driveway which doesn't impact the root zone of those trees. It is possibly not easy to tell on these plans but we – yeah, we weren't able to lower the garage any further below the – the design plan level without impacting the roots.

35 MS TAYLOR: So remind me which trees you're keeping.

MR THORP: I mean, this is raised up – it slopes down because here's stairs, right.

MS TAYLOR: Yes.

40 MR THORP: I mean, if you go down you, sort of, get - - -

MS TAYLOR: The trees that you are keeping are – what's the first one next door to number 54?

45 MR MOY: The trees - - -

MR: All the trees - - -

MR MOY: All the trees along the Dorset Street frontage - - -

MR JOHNSON: Yep.

5 MR MOY: There's three of those.

MR JOHNSON: That's right. There are three

MS TAYLOR: One, two, three. Yes. Right.

10 MR JOHNSON: Three large ones.

MR MOY: And then there's one on Gloucester Road.

15 MR JOHNSON: Yep.

MR THORP: Yeah.

MS TAYLOR: Okay. Understood.

20 MR MOY: And if I could also – I didn't get a – I didn't mention the overshadowing impact. We submitted an hourly interval shadow diagram as well just to assist. I just want to note that we estimate by 10.45 am on the 21st of June this development proposal won't overshadow any part of the property at number 50 Dorset Street to

25 the west for the rest of the day.

MR: It's only

MR MOY: It's in the morning, sunrise until 10.45 am. That's for the entire

30 property. The building won't overshadow any of their space at all.

MS TAYLOR: Mr Browning, have you seen those overshadowed diagrams?

MR BROWNING: No, I haven't. My - - -

35 MS TAYLOR: Might I ask one of the council people to pass that to him.

MR BROWNING: My concern is not just for myself, it's for my neighbours in - - -

40 MS TAYLOR: Nevertheless, if he's here - - -

MR BROWNING: - - - 52A.

MS TAYLOR: - - - he can speak. I don't need you to speak for him.

45 MR BROWNING: Oh.

MS TAYLOR: Thank you. Have a look at your diagram there. So they've been done in hourly segments; is that right?

MR MOY: That's correct, yes.

5 MS TAYLOR: I'm sorry, I didn't get the name of you, the planner. What was your name - - -

MR MOY: Jeremy Moy.

10 MS TAYLOR: Moy. Right. Okay. Thank you. So, Mr Moy, I take it that above the garage there is no - that space cannot be walked upon? Is that correct?

MR MOY: No, that's - that's a non-trafficable area

15 MS TAYLOR: Not trafficable. Right. Is that marked on the plans anywhere as non-trafficable?

MR MOY: I think it indicates on the first floor plan it basically shows a if you wish.

20 MR JOHNSON: Yep.

MS TAYLOR: I think - I think we better do that. And - - -

25 MR THORP: We're not or anything, do we?

MS TAYLOR: Non-trafficable.

30 MR THORP: Non-trafficable.

MS TAYLOR: Yes, yes.

MR THORP: Yes.

35 MS TAYLOR: So you're happy for that to be a condition and noted on the plans?

MR MOY: Absolutely.

40 MS TAYLOR: Thank you very much. Are there any other conditions, Mr Moy, that you wish to address?

MR MOY: I just want to reiterate my client's - it's condition number 7 relating to the removal of kitchen an opportunity to say that I - I don't believe that having that second kitchen will allow for dual occupancy use, and condition 76 more than adequately deals with which requires single occupancy going forward. So that's sufficient without having to remove the second kitchen there.

45

MS TAYLOR: Yes. I hear what you say. Thank you very much. Now, Mr Browning is it?

MR BROWNING: Yes, that's right.

5 MS TAYLOR: All right. You wanted to say something else. Because you are next door I'll allow you to do so but just speak about your own concerns.

MR BROWNING: No, well, I submission I was speaking concerned both
10 neighbours because - - -

MS TAYLOR: No - - -

MR BROWNING: - - - that's - - -

15 MS TAYLOR: Just - - -

MR BROWNING: Yeah.

20 MS TAYLOR: - - - concentrate on you.

MR BROWNING: Okay. Okay. So that means that at the – whereas – whereas at the moment I would get – I get sun through my high windows and my northern window in our sunroom at around about 7.30, 8 – 8 o'clock in the morning, I notice
25 with this that that will cease and that I won't get it until at least 10 o'clock. Okay. So that's two hours of lost amenity for me. That will increase my carbon footprint because I'll have to put the heater on. It also increase the – our energy costs, that sort of thing.

30 MS TAYLOR: Yes.

MR BROWNING: The same for our neighbours behind. So I just - - -

MS TAYLOR: Unfortunately it meets the council's standard for shadowing.

35 MR BROWNING: Right. Okay.

MS TAYLOR: So there is a standard that is allowed to be met and that – that diagram shows that it is met. Am I correct? Who's the planner for this area?

40 MR: I am.

MS TAYLOR: We meet – this meets the council's standard for shadowing?

45 MR: Yes, it does.

MS TAYLOR: Right. And also the shadowing test starts at 9 o'clock, so we don't take into account what happens before 9 o'clock.

MR BROWNING: Oh, okay. So we're - - -

5 MS TAYLOR: Yes.

MR BROWNING: - - - we're in complete shadow at 9 o'clock

10 MS TAYLOR: So the shadow comes off in terms of the council's standard, within the three hour period. So you'd have the - - -

MR BROWNING: Well - - -

15 MS TAYLOR: You have the sun for the rest of the day, such as it is.

MR BROWNING: Well, I'm just not quite sure on the - the grey shadings, what they mean. Is that a degree of shading or not?

20 MR THORP: Oh, no, I think it - - -

MS: It's to differentiate the hours.

MR BROWNING: Sorry?

25 MS: It's to differentiate the hours.

MR JOHNSON: Yeah.

30 MR BROWNING: Right. Okay.

MS TAYLOR: It's not the - the - - -

MR BROWNING: So 9 o'clock it comes - - -

35 MS TAYLOR: It's not the nature of the shade - - -

MR BROWNING: - - - halfway across my block, at - - -

40 MS TAYLOR: - - - it's where the shade occurs.

MR BROWNING: - - - 10 o'clock - okay. Right.

MS: Yeah.

45 MR THORP: Yeah.

MS TAYLOR: Yes. Yes.

MR BROWNING: I understand. Thank you.

5 MS TAYLOR: So I think it shows the shadow off by 10 o'clock.

MR BROWNING: Right.

MS TAYLOR: Which would be within the council's standard.

10 MR BROWNING: Right. Thank you.

MS TAYLOR: And – and in other – and – and what the council has said in its report and in other – in other ways this meets the standards of the Hornsby LEP that they – we have to deal with - - -

15 MR BROWNING: Right.

MS TAYLOR: - - - in terms of height.

20 MR BROWNING: So – okay. So I go back to the original submission in 2016 for the subdivision of the property, okay, and that subdivision was given on the basis of the existing both of those blocks are undersized.

25 MS TAYLOR: Yes.

MR BROWNING: Okay. Now, there was a special provision - - -

MS TAYLOR: This is the outcome of undersized subdivisions.

30 MR BROWNING: It was a special provision because the existing dwellings weren't going to change. There was 2016 that there would be a change and that this rather large structure, which doesn't meet the boundaries and the setbacks that the Hornsby council LEP has in place, was going to be built, no one knew. So what's going to happen now?

35 MS TAYLOR: Well, it now - - -

MR BROWNING: council - - -

40 MS TAYLOR: - - - meets the standards. It mightn't have met the standards in 2016 - - -

MS BROWNING: Yeah.

45 MS TAYLOR: It does meet the standards in 2018 and so it is approvable - - -

MR BROWNING: I see.

MS TAYLOR: - - - and we can't be throwing it out - - -

5 MR BROWNING: Right.

MS TAYLOR: - - - because of what happened in the subdivision because that was approvable then, this is approvable now.

10 MR BROWNING: I see.

MS TAYLOR: What we are saying is that – that in certain aspects good things are happening because we're pleased to see that three major trees on the corner are to be retained and that the council and the architecture have worked out – and the arborist,
15 for example, that no building must take place in the vicinity of the trees to – to disturb them. They've also got a problem I understand of where the sewer goes and so otherwise the council report, which you will have read no – no doubt, states that this is a complying development.

20 MR BROWNING: Yes.

MS TAYLOR: However, we have concerns about the look of the design and we as a panel are requiring a setback on your side by one metre of the whole of the side of the house so - - -

25 MR BROWNING: Which brings me to – to – to – to my point that the representative of the applicant was making and – but – I – he put a very good argument to the – the point that the design is too big for the constraints of the council's LEP, so - - -

30 MS TAYLOR: Well, it's certainly a big design. It – I don't think he is correct in that if he's saying there are – there are constraints on the site, but generally speaking there is only one non-compliance, which is the setback to number 52A, not you - - -

35 MR BROWNING: Yes.

MS TAYLOR: - - - and otherwise it meets the controls as – as they stand today. So that's – that's the situation and it meets the overshadowing controls. Could I have the shadowing document back, please, somebody.

40 MR BROWNING: Thank you.

MS TAYLOR: If someone could bring that over to us. So that's the situation - - -

45 MR BROWNING: Thank you.

MS TAYLOR: - - - The situation, so thank you very much. I understand your position.

MR MOY: May I just say - - -

5 MS TAYLOR: One minute.

MR MOY: - - - one further point. The side setbacks for – under the Hornsby DCP single storey minimum 900 millimetres is required.

10 MS TAYLOR: Yes.

MR MOY: We currently propose 1.39.

15 MS TAYLOR: Yes.

MR MOY: So the ground floor – you know, we’ve – we’ve over-complied there, and for the first floor, which is more significant, a minimum 1.5 is required and we have 3.89 metres - - -

20 MS TAYLOR: Yes.

MR MOY: - - - proposed, so - - -

25 MS TAYLOR: It’s a – it’s a design solution that we are concerned about - - -

MR MOY: Yes.

MS TAYLOR: - - - and that in this street in – with – with these houses of some historic interest – it’s not as yet listed – we find that the design is overwhelming and needs some amendment by one metre and we will impose a condition to that extent. Do you wish to address any of the other conditions?

30

MR MOY:

35 MR ALEIDZANS:

MR MOY: No. I think – I think we’ve addressed all the – the conditions but, yeah, my client’s just asking if - - -

40 MR ALEIDZANS:

MR MOY: - - - there’s a decision on the – on the kitchen.

45 MR ALEIDZANS: kitchen?

MS TAYLOR: Right. On the kitchen, yes. We will follow the council's advice in that matter. We will not approve the kitchen.

MR MOY: Right.

5

MS TAYLOR: Thank you very much.

MR MOY: Thank you. Thank you.

10 MS TAYLOR: Gentlemen, are we in a position to make a decision?

MR THORP: I think what you've said is – is – yes, I agree with.

MS TAYLOR: Thank you very much. Are you happy with that? In this matter,
15 ladies and gentlemen, there will be an unanimous approval of the application subject to the conditions in the council town planning report with a conditional additional condition imposed by the panel that on the western part of the house there is to be a further setback from the boundary of one metre along the whole of the side of the house, and the purpose for doing that is to improve the design in – in this street, and
20 the character of the street we think will be affected with the design that does not more appropriately respect the proportions of the development within the street. Thank you. That's the end of that matter and we'll move on to item number 3. Thank you very much to those who have spoken. We wish you both well with the development.

25

MR MOY: Thank you.

MS TAYLOR: I think we should mention at this stage – I don't know that we did – that all of us have to make a declaration that we have no interest, or conflict of
30 interest, with any of the applications or the people involved and each of us will sign a statement to that effect and it will be put on the record. Thank you. Item number 3 is – sorry – we're moving to item number 4, Dorothy Street, child care centre. The applicant here for this matter?

35 MR:

MS TAYLOR: Right. Thank you. And people here to speak against this matter?

MS A. NEWMAN: Yes.

40

MS TAYLOR: Okay. Angela Newman.

MS NEWMAN: Yes.

45 MS TAYLOR: You're speaking on behalf of everybody or just yourself?

MS NEWMAN: I am.

- MS TAYLOR: Right. Thank you. Over to you, Ms Newman - - -
- MS NEWMAN: thank you.
- 5 MS TAYLOR: - - - if you would like to speak.
- MS NEWMAN: Okay. So I've – I've put together some notes on this. We had put a petition together back in February rejecting this particular child care centre for the fact that there was quite a few. I've done my research again and I found today
- 10 there's still 19 child care centres in the Wentworthville area, both on the northern side and the southern side of the railway line. Now, I had one that rang me back and said that they're not full. They cannot seem to get full occupancy for these children. They cater for the young to the preschool, right
- 15 MS TAYLOR: So, Ms Newman, are you going to put an argument to us that there are too many child care centres?
- MS NEWMAN: Yes.
- 20 MS TAYLOR: I'm afraid it's like ice-cream shops.
- MS NEWMAN:
- MS TAYLOR: There's not a – there's no rule that says you – there are too many.
- 25 MS NEWMAN: Okay. That's point 1.
- MS TAYLOR: Okay.
- 30 MS NEWMAN: Okay. We still think we don't need it. Number 2, increased traffic in the street. Dorothy Street seems to be a thoroughfare. They bypass Binalong Road because there's a traffic light from Binalong Road into Darcy Road so they come screaming down our street. Also there's an increase of the townhouses that have been built and you're allowing one garage, one car or garage, for those
- 35 townhouses which therefore to have cars on the street which is now causing a problem on top of Dorothy Street turning into Page Street. Right. So that's already there in existence. I complained about this before but that's what one of my big concerns is, that you – there's too many parking. Right. Next one, Darcy Street - - -
- 40 MS TAYLOR: Too much on-street parking, is that - - -
- MS NEWMAN: Too much - - -
- MS TAYLOR: - - - your concern?
- 45 MS NEWMAN: - - - on the street parking.

MS TAYLOR: Thank you, yes.

MS NEWMAN: Okay. The – the school is down the street, Darcy Road School.

5 MR THORP: It's around the corner.

MS NEWMAN: Around the corner from me. All right. All the parents are coming in from 8 o'clock already dropping their kids off. They park their cars right up the street all the way down to the corner down to Darcy Road right through to Binalong
10 Road down to the park on the other side, all right, to Fyall Avenue. So they're parking there to pick up those kids, so we're already catering a lot of traffic throughout the day. Now, if your – if I – I work from home sometimes and if I can't get out of my driveway I have to wait. My mother can't get out of her driveway, she has to wait. So a lot of people are blocking our driveways and it's a constant
15 problem to

MR THORP: You mean parked cars are blocking your driveway?

MS TAYLOR: Are they sitting there or are they going away?
20

MS NEWMAN: They're going away

MS TAYLOR: Because that's a police matter, isn't it?

25 MS NEWMAN: Yes.

MS TAYLOR: Yes.

MS NEWMAN: I've already complained to the school for this as well, but that's –
30 that's the other. Okay. Third one, devaluation of my property - - -

MS TAYLOR: Don't speak any further. It's not a matter that we are allowed to take into account.

35 MS NEWMAN: Really?

MS TAYLOR: So tell us - - -

MR THORP: Yep, so - - -
40

MS TAYLOR: - - - why you think your property is being devalued. What's the problem?

MS NEWMAN: Because of the traffic and the noise of having people arrive before
45 7 o'clock to drop their kids off to this preschool.

MS TAYLOR: Right.

MS NEWMAN: So there's constant traffic, and to after 6 o'clock at night.

MS TAYLOR: Yes.

5 MS NEWMAN: Right.

MS TAYLOR: Okay.

MS NEWMAN: Fourth point, the previous petition - - -

10 MS TAYLOR: This is the sixth point.

MS NEWMAN: No, that was the third one.

15 MS TAYLOR: Okay.

MS NEWMAN: The fourth one – and I've only got four points – the fourth one was a previous petition done in February by all the neighbours in Dorothy Street other than the – the owners of this property, and in Yarbon Street and in Page Street, and

20 this has been dismissed. We don't want the child care centre there.

MS TAYLOR: Unfortunately it's a permissible use in this area.

MS NEWMAN: I understand that but - - -

25 MS TAYLOR: So it can't be dismissed by anybody because it's a child care centre. We have to look at the impacts.

MS NEWMAN: All right. So then why send out the letter in the first place if you

30 want us to vote for or against it when

MS TAYLOR: We want you to vote against the aspects of it that upset you and we want to make sure that, if there is to be a child care centre, there that it doesn't impact unnecessarily on you.

35 MS NEWMAN: Okay. And it impacts on the other neighbours as well, so that's the thing. All right.

MS TAYLOR: You've – you've done – you've had some concern in the past about,

40 say, illegal parking.

MS NEWMAN:

MS TAYLOR: Have you spoken to the council about this? We were wondering if

45 there's some sort of restriction that should have been placed on the street, and perhaps we can speak to the council about that.

MS NEWMAN: Okay.

MS TAYLOR: It might be time if, you know, the school children's parent situation is affecting the street and were there to be a child care centre, if that was affecting the street, then - - -

5

MS NEWMAN: Fair enough.

MS TAYLOR: - - - you might be looking for something - - -

10

MR JOHNSON: And then, again - - -

MS TAYLOR: - - - permanently.

15

MR JOHNSON: - - - I think, Chair, we did notice the level of parking in that street there this afternoon.

MS TAYLOR: That apparently was from the school.

20

MS NEWMAN: Absolutely. Absolutely. So most of the time through the day it's halfway up the street.

MR JOHNSON: Yep.

25

MS NEWMAN: The parents who go in and assist school and so forth, they park there rather than on - on on Darcy Road. And then you've got the 2.30/3 o'clock time which is heavy so - - -

MS TAYLOR: That's when we were there.

30

MS NEWMAN: That's it.

MS TAYLOR: And then we weren't here - - -

35

MS NEWMAN: I bet you - - -

MS TAYLOR: - - - when we should have been.

MS NEWMAN: I bet you you were. I'm not - thank goodness you were there. You can see what we're putting up with. Yeah.

40

MS TAYLOR: Any questions from anybody?

MS JOHNSON: No.

45

MS TAYLOR: Rick, did you want to say something?

MR McLEAN: no.

MS NEWMAN: Okay.

5 MR THORP: No. No, I don't have any questions.

MS TAYLOR: Okay. Applicant. Mr Wood, you're speaking on behalf?

10 MR WOOD: On behalf of the applicant, correct - - -

MS TAYLOR: Yes.

MR WOOD: - - - in support of the application. So I understand the – the comments
and concerns raised and – and, Madam Chair, you've addressed some of those. Just
15 in relation to parking I just wanted to point something out. You would have seen it.
The DCP requires 12 spaces; we've got 15. So we've got three additional parking
spaces over the minimum standard required. We also reduced the size of the centre
through the assessment process from 54 to 48, reduce the size and density of the
centre, and that also in the amount of traffic that'd be generated. I'm not a traffic
20 engineer so I'm not going to touch on on-street parking and traffic, those sort of
matters. The council report considers that those matters to be acceptable based
on the content of the report. I a whole lot to say in terms of our position put to
you. We've read the report, read the conditions. We're supportive of those and,
again, a bit like the other matter, we're here to answer any questions the panel might
25 have in queries, concerns or comments in relation to the – to the centre.

MS TAYLOR: Any member of the panel like to ask a question?

MR THORP: Well, just one question. On – on the parking numbers, how many of
30 the required parking numbers are for staff and how many are for drop-off/pick-up?

MR WOOD: Yeah. So at the moment the Parramatta DCP doesn't stipulate
between the two, so at the moment we haven't actually specified staff versus visitor
pick-up because the parking rate doesn't allocate a particular amount to each
35 component. So at the moment they're just simply nominated as 15 parking spaces
within the basement area on the basis that the minimum is 12, because it's a one per
four rate. Some councils say it's one per two staff and then one per 10 kids. If you
were to apply that rate it's roughly, sort of, I don't know, 40 per cent staff and 60 per
cent pick-up/drop-off. But as I say we haven't stipulated staff or pick-up spaces
40 simply because the DCP doesn't differentiate between the two so

MR THORP: Right.

MS TAYLOR: Have your clients run a child care centre before?
45

MR WOOD: Yes

MS TAYLOR: So how does it work in the morning? We were – we were worried that those cars would be going down and coming up at the same time and there might be some clash, and just do you deal with that by not allowing your staff to park in there until the parents have dropped the children. How do you deal with that?

5

MR WOOD: Yes. So normally in terms of the way the centre appropriates, obviously for the centre to be open the staff have to be there before the - - -

MS TAYLOR: Yes.

10

MR WOOD: - - - first kids get there. So the way that most centres operate and the other centres that we've worked on, the staff arrive first and they'll park in their nominated parking spaces within basement. Therefore the staff movements are generally not conflicting with the pick-up/drop-off times of parents so you – you take that out of the equation. In terms of conflict between parents coming and going at the same time, that conflict does exist but the actual design of the basement ramp, from my understanding, is actually a two-way ramp so that two cars can actually pass one another if there's a car coming in as a car's going out. So we've actually designed it so we've got sufficient space for two cars to pass one another. So it is about that busy – that busy time of the morning between, I don't know, anywhere from 7 till about 8.30 which is, sort of, the peak time. In the afternoon it's 4 till about 6 in terms of those pick – pick-up and drop-offs for parents and children.

15

20

MS TAYLOR: So is it expected that all parking for the child care will take place underground?

25

MR WOOD: So I don't know that you can 100 per cent guarantee that every single car is going to go into the basement. You can't control how people act or what they do. Some may well park on the street and walk the kids in, but the intention is that we have sufficient parking within the basement, an excess of three spaces, so that there is the ability for parents to utilise that basement car park. Our intention is that they will use it, go up the lift, sign the kids in, go back down and leave – go in the basement and leave, so - - -

30

35

MR McLEAN: But, Mr Wood, if we've got five parents consistently turning up at the same time and, let's be honest, in terms of child care centres that's the way it rolls - - -

MR WOOD:

40

MR McLEAN: - - - they will not be parking underneath because if there's only three car parks and five parents turning up at once - - -

45

MR WOOD: Yeah. I guess what we're saying is we've got more than three car parks in terms of the amount nominated for visitor pickups. Normally it's about 60 per cent visitor drop-off/pick-ups. So if we say 15 spaces – that – so that's that times – that's basically eight spaces that will be allocated – eight or nine spaces for the

pick-up/drop-off periods. So I agree with what you're saying. I agree that some people may well park on the street and walk their children in.

MR McLEAN: Yep.

5

MR WOOD: We can't – we can't control how people act.

MS TAYLOR: Well, that's what I want to disagree with you about. You've got their children captive there during the day. You don't let them go home if it's bad behaviour in the parents. So I'm wondering is there a plan of management.

10

MS NEWMAN: That's kidnapping.

MS TAYLOR: A plan of management that deals with parents who continually disobey the rules - - -

15

MR WOOD:

MS TAYLOR: - - - about the parking.

20

MR WOOD: Yes, so - - -

MS TAYLOR: Can't you put something into a plan of management?

MR WOOD: So we can. So we can put in a plan of management that visitors are to utilise the basement parking as far as practical in terms of, you know, avoiding on-street parking. So we can put that in a plan of management. How we then have some penalty for if, you know, they don't comply, whether they get charged more money for the day or what have you, I don't know. But we can certainly have a plan of management that's put in place.

30

MS TAYLOR: And it'd do something, like, use your best endeavours that the plan of management will be kept.

MR WOOD: Correct.

35

MS TAYLOR: That's part of your plan of management, and then you'd make a copy of the plan of management available to the parents, would you not?

MR WOOD: Yeah, that's correct. So as part of obviously the enrolment process they're provided with an information pack that contains a whole series of information about clothing, about hours of operation - - -

40

MS TAYLOR: Yes.

45

MR WOOD: - - - expectations on pick-up, set down, who's allowed to pick up the kids, whether that's a parent, a grandparent, any other authorised person.

MS TAYLOR: So there are all of these rules so the – the – the important rule that affects the neighbours could be incorporated into your plan of management.

MR WOOD: Correct. So we can incorporate that in the plan of management.

5 MS TAYLOR: Yes. Thank you.

MR JOHNSON: Can I just ask how many staff are you proposing to have at the centre?

10 MR WOOD: Yeah, I'll have to check report got 48

MR McLEAN: But there's no stipulation in terms of part-time or full-time staff in that report.

15 MR JOHNSON: Yeah.

MR WOOD: No, there's not.

20 MR McLEAN: So, again, from a part-time perspective - - -

MR WOOD: So - - -

MR McLEAN: - - - of staff would be starting at different times.

25 MR WOOD: Correct. So the – the full-time equivalent is eight staff that's required for the 48 children so - - -

MR JOHNSON: Yeah. So there may well – may well be 10 on any day.

30 MR WOOD: Potentially.

MR JOHNSON: And – and that – wouldn't that mean probably 10 parking places taken?

35 MR WOOD: It could, potentially. I – I mean, we'd hope that - - -

MR JOHNSON: So that would leave only two.

40 MR WOOD: Oh, we've got – we've got 15.

MR JOHNSON: Sorry – sorry, that would leave five for - - -

MR WOOD: Correct. Correct.

45 MR JOHNSON: - - - parents dropping off and - - -

MR WOOD: Yeah. So as part of that, I mean, we can also look to actually specify directly that there must always be available eight parking spaces for – for set down and pick up. We don't expect that every single staff member is necessarily going to drive to the site.

5

MR JOHNSON: No.

MR WOOD: We hope that at some point someone might catch a bus or some of the more junior educators that are doing their traineeship might not even be driving at that point in time or catching a bus or what have you. It's fairly well serviced by bus routes on Darcy Road.

10

MR JOHNSON: Or parking in the street.

MR WOOD: Or they could park in the street.

15

MR THORP: I'm just going to comment that, having lived through having children and pick-up and drop-off and everything else, and admittedly it wasn't in this – this area, but parents – and I'm not choosing between men and women or others – they are universally appalling in their driving habits when it's to do with their children. I mean, it's staggering. They are the most dangerous people behind a steering wheel you'll ever see in your life I think is – is parents, and my concern – and perhaps this can't apply here, but I would really like to see that the parking provisions be increased in – in terms of we've got 2.4 metre wide parking bays here.

20

You know, you probably need three metres for – for parents because of opening doors of cars and getting the children out and everything else, and it's very difficult for many people to park, to – you know, to get into a parking spot when there are already other cars there. So I have some concerns that the design of the car park, that – that – that in use there are going to be critical times of the day when the whole thing starts to go belly up, that it just becomes impossible because there are two people down there trying to manoeuvre their cars, there are people in the driveway

25

MR JOHNSON: So people will choose to park on the street.

35

MR THORP: Yeah. So I think a very likely outcome will be that people will choose to park on the street because it's easier, and I think we heard the dear lady on behalf of objectors ---

40

MS TAYLOR:

MR THORP: --- concerned. A plan of management certainly is going to be required sooner or later.

45

MR WOOD: I'm more than willing to – to implement that and – yeah, to prepare it to the satisfaction of the relevant council staff and I presume that'll go to their traffic

section for comment on the practicalities. I can't comment on the width of the spaces. I presume they meet the minimum standard requirements. I appreciate what you're saying that if you open a door right up - - -

5 MR THORP: Yeah.

MR WOOD: - - - if you don't park perfectly it's slightly difficult.

MR THORP: Yeah.

10

MR WOOD: But I guess that's just the

MR THORP: No, no. Look, I – I – I accept the fact that the parking provisions you have – that have been made satisfy the – the law. I just don't – I think the law's a bit out of date, that's all. Okay. Thank you.

15

MS TAYLOR: Is – I just haven't found – is there a plan of management requirement?

20 MS: The regulations don't actually allow us to do that any more with the with the new set it actually takes out council's ability to ask for that.

MS TAYLOR: Right.

25 MS: So, yep.

MS TAYLOR: Right.

MS: I'd love them but - - -

30

MR WOOD: Oh, well, we're prepared to - - -

MS TAYLOR: Are you volunteering one, Mr Wood?

35 MR WOOD: - - - volunteer

MS: They can voluntarily but we can't - - -

MR WOOD:

40

MS TAYLOR: You're volunteering a plan of - - -

MR WOOD: We're volunteering a plan of management.

45 MS TAYLOR: I see. Right. Note. Particularly one that will deal with the parking problems that may be generated as a result of any particular use that you're doing.

MR McLEAN: And, Chair, I'm not sure whether this panel has any over council reviewing potentially that street in terms of parking - - -

MR JOHNSON: Parking controls - - -

5 MR McLEAN: Yeah, parking controls.

MR JOHNSON: - - - within the street perhaps.

10 MS TAYLOR: Yes.

MS: We can pass that onto our - - -

MR JOHNSON: Yeah.

15 MS: - - - manager of traffic services.

MR JOHNSON: Perhaps we can suggest that to council.

20 MR: Yep, no problem.

MS TAYLOR: So what we are saying, Ms Newman, that we're suggesting to council that as a result of problems you've already told us about and your concern that as a result of – if there might be an approval for a child care centre they might be exacerbated, that there might be a discussion that could take place at the – at the traffic committee which involves the police and the main – the – the RMS and – and the council about some restrictions in the street that might assist you. So that might be something you might be want to take up with your local member.

25

30 MS NEWMAN: Thank you.

MS TAYLOR: One way or the other. Whatever happens here today.

MS NEWMAN: Okay.

35 MS TAYLOR: Thank you very much. Now, gentlemen, do we need to return to okay.

MR THORP:

40 MR McLEAN: No

MS TAYLOR: Yes. Thank you very much, Mr Wood. The panel will approve the application as recommended by the council for the reasons given in the council report, and also subject to the conditions in the council report. The panel notes that the applicant has offered a condition to instigate a plan of management in regards in particular to the management of the whole child care centre, but in particular relating

45

to the management of the parking and will encourage the – the use of the parking on site, discourage use of the parking in the street by the – the parents and will take active steps and use their best endeavours to ensure that parking takes place appropriately, and we note that that will be something that will be submitted to the council perhaps with the construction certificate and that you volunteered to do that and we thank you very much. We wish everybody in the street and the applicants well with this application. Thank you. Item number 5. Are you here for this, Mr Sonter?

10 MR M. SONTER: I am - - -

MS TAYLOR: Right.

15 MR SONTER: - - - Madam Chair.

MS TAYLOR: Right. Okay. We're doing item number 5, which is 15 to 19 Essex Street, Epping. We have some people who wish to speak against this application. Would you like to come forward – Rongpin, Bob Yap and Yao Yong Ma. And you are?

20 MS J. PAGE: Joanne Page.

MS TAYLOR: Joanne Page. So you're in support?

25 MS PAGE: Of council's refusal of the - - -

MS TAYLOR: I see.

30 MS PAGE: - - - variation.

MS TAYLOR: Got it.

MR JOHNSON: In support of the

35 MS TAYLOR: Okay.

MS PAGE: It's sort of a back-handed

40 MS TAYLOR: I see. So in this forum we would call that against.

MS PAGE: Yes, definitely.

MS TAYLOR: Okay. You may speak first.

45 MS PAGE: Okay. Thank you, Madam Chair, and thank you very much for the opportunity to address the planning panel. I also speak for for Rockleigh Way who I believe had an invitation as well and is submission. We do support the

panel's recommendation that this variation be refused. We live on the eastern rear boundary behind, and more importantly below, the proposed development and we'd like to make two points. First, regarding the zoning and level of neighbouring properties, the application refers to Rockleigh Way on the eastern boundary being zoned R4. This is a recent rezoning and only the western side of Rockleigh Way has been rezoned as R4. The eastern side of Rockleigh Way is zoned R3 as it abuts Norfolk Road

MS TAYLOR: Just pause there. Are you Rocky Way?

MS PAGE: Rockleigh Way, yes.

MS TAYLOR: Rockleigh Way. Thank you. Good. Yes.

MS PAGE: I'm number 29 Rockleigh Way.

MS TAYLOR: Right. Thank you.

MS PAGE: Sorry all Rockleigh Way properties on the boundary of this application are two storey townhouses which is, I think, commensurate with R2 zoned heights. The proposed site has a four metre slope to the rear boundary from the street. In addition, adjoining rear properties are set in Rockleigh Way are set two metres below the level of this rear boundary. There's a two metre retaining wall which should be considered in excavation plans. The plans appear to justify the increased height as measured from the front of the site at the street level, thus the rear buildings are increased in height compared to the front of the site. For instance, in the planning building B and C are over two and a half metres above height limits compared to the front building A which is only one metre above height limit.

The type – the impact of this is the topography amplifies the additional height of the proposed building from the rear eastern side. In effect it would be like an eight or nine storey building, which we argue is not in the spirit of council's zoning plans as we're effectively two storey, and will always be. The second point is the profile of building at the rear. We support council's finding that the plans for the rear of the building are exceedingly altered in height and length with a minimal setback which accentuates an overbearing vista to lower level neighbours. The proposed removal of large trees on the boundaries and the sparsity of the proposed landscaping does nothing to mitigate the impact on neighbours.

The current plan for virtually – will result in virtually no view of trees or will be completely blocking being able to look into our property and our rooms. A dense green screen we propose would assist both visual impact and privacy for these neighbouring buildings. And I'd also like to note that it's been commented, and I believe from a councillor – a planning – a planner in council, that the 34 townhouses in Rockleigh Estate built in the 1990s are ripe for re-development.

This is contrary to specialist advice which suggests that it's unlikely and not financially viable to do this due to its already immediate medium density development, ie, they would have to buy out owners, the narrow strip of land that we have and the terrain of the land which is very steep and, most importantly, the location of the central easements running through the middle of Rockleigh Way would also accommodate the main three properties including this proposed development. We have an agreement – agreement with the developer for easement onto our property. So we support the panel's review of this proposal on the basis of local needs and local conditions to ensure a liveable Epping precinct rather than decisions based on Facebook and other unrelated precincts which we note in that application. Thank you.

MS TAYLOR: Thank you very much. Did somebody else wish to speak?

MR R. ZHOU: Yes.

MS TAYLOR: Yes. Thank you.

MR ZHOU: Good afternoon. I'm living in – end of Brenda Way and if you look at this picture - - -

MS TAYLOR: I've got a map if you would like to come and show me here. I just didn't get your name, sir.

MR ZHOU: Yes. Rongpin Zhou.

MS TAYLOR: All right.

MR ZHOU: Yeah.

MS TAYLOR: Thank you.

MR ZHOU: My property is here. So it's, kind of, being surrounded by five to seven storey buildings.

MS TAYLOR: So is that you there?

MR ZHOU: No. No.

MS TAYLOR: This is Essex Street.

MR ZHOU: Here. Here.

MS TAYLOR: That's you there.

MR ZHOU: Yeah.

MS TAYLOR: Okay.

MR: Okay. Yeah.

5 MR ZHOU: Yeah. Yeah. This one. Yes, that's the one.

MR: All right.

10 MR ZHOU: Yeah. You – you will see that I, kind of, like living in a glass box – you know, ones that have been built.

MS TAYLOR: Yes.

15 MR ZHOU: So that's privacy and easy to understand. And another thing is that the – the construction safety. Actually, when the 7-9 Essex Street was built, we have been through the uncomfortable and unsafe situation and when the hammers hitting the ground besides my building is, kind of, And also the crane standing over, you know, my building and sometimes I just, you know, kind of afraid something just was dropping over my building. And while doing some research I find out they didn't even apply for some airspace licence for, you know, standing over my place. 20 So that's – and another thing is that it could, kind of, once they are doing the hammering, you know, hitting the ground, they could, you know, damage my building because the, you know, vibration on all sorts of things.

25 And also we've been through the, you know, kind of, like, the whole building is vibrating, even it's a small, you know, vibration. So actually that's the two main points for that. One is the privacy, another one is really constructions, everything. I have two kids, so it – it – one it has been built I don't think they could, you know, go outside and, you know, play in the backyard.

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MS TAYLOR: Thank you very much.

MR ZHOU: Yeah. Thank you.

35 MS TAYLOR: Those are your concerns?

MR: Thank you.

MR ZHOU: Yeah, two concerns.

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MS TAYLOR: Thank you very much. Mr Bob Yap, are you here?

MR B. YAP: Yes. Yes, I'm here. Yes, I – I represent five households, so - - -

45 MS TAYLOR: Would you like to show us on this map where they are?

MR YAP: Okay. We're on Norfolk Road.

MS TAYLOR: This is the site.

MR: Norfolk. Okay.

5 MR YAP: This is the site. We are - - -

MS TAYLOR: This is - - -

10 MR YAP: We are these side houses here.

MS TAYLOR: Okay. Round there.

MR YAP: Yeah. Yeah. One, two, three, four, five.

15 MR: Yes.

MS TAYLOR: Thank you. Yes.

20 MR YAP: Yeah. Okay. There's five households there right behind this proposed development and – so all of our houses are single storey. There's one double storey. The ones immediately adjacent to the development is a single storey. We looked at the proposed development has got some seven storeys and six storeys and we understand that the area – the whole – you know, the whole of the area there has been five storeys. And so we are concerned, you know, seven storey right next to
25 our single storey houses. And it's a drastic transition in and we request the council to look at that, you know, just making sure that that is permissible under the zoning.

30 So the second issue is that between this proposed development and house, there is a natural screen of trees which are quite mature and we are just concerned that some of these trees may be cut down to make way for the development and we're requesting council to and look at that and try to retain that vegetation there because it's – it's very important to us, otherwise you lose all that privacy to try and our houses. So those are the two main issues that we wanted to put forward to the council. Apart
35 from the fact that, you know, setbacks and all that, we just hope that it will comply with regulations. So basically that's the issue that we wanted to raise.

MS TAYLOR: Thank you very much.

40 MR YAP: Thank you.

MS TAYLOR: Does anybody else want to speak about this matter?

45 MS J. HWA: I – my name is Jen Hwa.

MS TAYLOR: You have to come forward if we're going to hear you.

MS HWA: Yeah. I'm Jen Hwa. I'm – I represent the owner of number 11 Essex Street, Xiao Yong Ma.

5 MS TAYLOR: 11. She's between the two buildings.

MS HWA: Yeah, next door.

MS TAYLOR: Yes.

10 MS HWA: Right next door.

MR: Yeah. Yeah.

MS TAYLOR: Yes.

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MS HWA: Yeah. We – we support council's review of this proposal in general. Having said that, I should – I should also like – like to address these two, maybe three of our concerns. First of all is the – is the privacy impact of the building. We have this – this big glass window overlooking our yards. Regard this, we are going to – also we are going to submit our development. Without this, we are still a family living there so having this – this glass window overlooking our backyard, it's – it's – we – we – it's not clear, like we can – we can see what's – what's unreasonable. Like, what's the reason for – for having this. We are the family living there and next door, they have no people living there. We are – so that's the – that's – we can't understand.

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MS TAYLOR: Thank you.

MS HWA: The – the second main point is the – from – from their proposed – yeah, we found their concept design for – for our property. We never asked anyone to design any boarding house for us, so we complete – we think we reject this design. We can't – when – when we designed our – and when we designed our house, whatever it is, we never asked someone to – to have this for us. It's not what we want at all.

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MS TAYLOR: Right.

MS HWA: So is it legal or is it – like, what – what – we're not sure what we can do. All we can say is we completely disagree with this design.

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MS TAYLOR: Right.

MS HWA: There's no window on the – on two side. It's – it's not liveable as well. So the last point I would like to say is the – all this overhanging trees now. A year and a half ago there's big trees crash – crash our balcony at the back. There's termites. There's everything there. So lucky we – we got insurance company to – to – to help us. But now – yes, the other trees around the side that it's crashed again.

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Just missed by – our house by a few centimetres. We really – we cannot like
- - -

5 MS TAYLOR: Have you spoken to the owner of the land about that?

MS HWA: I – I – we mention it but we just – we just can't wait – we can't wait until the incident happen again.

10 MS TAYLOR: Well, I'm not going to give you legal advice but I'm suggesting that's a matter this panel can't deal with. If you've got a problem with a neighbouring property and trees, you better get your own legal advice.

MS HWA: Okay. Thank you.

15 MS TAYLOR: We don't deal with that here.

MS HWA: Okay. And last the side isolation of our property.

20 MS TAYLOR: Right.

MS HWA: We – we – we want to get this resolved as well as long as these are important matter to us before we can decide which way we can go. Our property is isolated now and was isolated, so - - -

25 MS TAYLOR: So have you been offered any money to sell to the developers? Have you been in contact with them?

MS HWA: Yes. Yes. Yes. Charles – it was Charles advised to talk to each other.

30 MS TAYLOR: Yes.

MS HWA: But it went nowhere and we – we don't seek the offer is – is – is the – it's not last much longer. It's just like it will be over and next day I woke – woke up, "Wait, what's that? We don't understand." It's not enough - - -

35 MS TAYLOR: So do you have legal advice?

MS HWA: Not – not at – now.

40 MS TAYLOR: I would very much suggest that you get it because this is a situation where your legal rights might be affected by decisions being made and it would be of assistance to you to know how to deal with them.

45 MR THORP: Could - - -

MS HWA: Yeah. We have advice from council all the time.

MS TAYLOR: Yes. But council doesn't work for you. You need someone who works for you, advising you.

5 MS HWA: Okay. Yeah. So this is our concerns mainly. Like, three main concerns. That's it.

MR THORP: Yeah. Could I - - -

10 MS TAYLOR: Right. Okay.

MR THORP: Could I - - -

MS TAYLOR: Yes, please.

15 MR THORP: - - - just explain. I think if I understand it correctly, the reason somebody has done a design on number 11 is to demonstrate or to try to demonstrate that the property is not isolated insofar as it could still be developed in some way. Am I - I think I'm correct in that.

20 MR JOHNSON: That's what I understood, too.

MR THORP: That's why it was done.

MR: Yeah.

25 MR THORP: And you may not accept the proposal.

MS HWA: Yeah. We're not - we can't accept this.

30 MR THORP: No, no. You don't have to.

MR JOHNSON: No.

MR THORP: It's just really - - -

35 MR JOHNSON: It's not a - it's not a - - -

MR THORP: - - - a demonstration - - -

40 MR JOHNSON: Yeah.

MR THORP: - - - to say that the property, number 11, can be developed. That's all.

MS HWA: Okay. If that - - -

45 MR JOHNSON: We might - yeah.

MS TAYLOR: I think that's something about - - -

MS HWA: - - -, it doesn't mean we have to have - - -

5 MR THORP: No, no. Not at all. Not at all.

MS HWA: Yeah. Okay. That's – that's good to – to hear.

10 MS TAYLOR: Okay. Thank you very much.

MS HWA: Thank you.

MS TAYLOR: Nobody else to speak to this matter apart from the applicant? Over to you.

15 MR SONTER: Okay.

MS TAYLOR: Do you want to deal with the isolation matter first?

20 MR THORP: Yeah, that would be good.

MR M. SONTER: Sure. I'm happy to deal with that in turn. Up front is fine. Good afternoon, panel. My name is Matt Sonter. I'm a planning and environment solicitor with Mills Oakley. I represent the applicant. As you're probably aware from the report, a class 1 appeal has been filed against the deemed refusal of the development application. I'm happy to deal with isolation. So my client has had a report done in terms of valuation of number 11 Essex Street. The report has been furnished to the owner. An offer has been made \$600,000 above what the report determined to be the market value of that particular property. That offer was declined.

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40 The proposal that came forward on the basis that the offer was declined included information, as you've identified, which purported to show what could, in essence, be redeveloped on that site. I understand that the redevelopment potential of that site could take many different forms. What has come forward in the package of the DA material identifies the potential redevelopment of that site. It doesn't need to be the final form of it, but it does show, in fact, that the site can be developed in a manner that is consistent with the controls, the permissible uses identified for 11 Essex Street. Just to round that comment out, I suppose, and to close the loop on that issue, there has been negotiations as between the parties. Offers have been made.

45 If a counter-offer was to come back, my client would consider that. But just to put that isolation in context, there is an existing development consent which applies to the subject site. There is an approval on the site. That approval is active operational. We can go and start it tomorrow if we wanted to. That approval is for the architects, JPRA. That approval provided for a four metre setback off the boundary to 11 Essex Street. The application that comes forward before you now provides for an increase

in that setback to six metres. I have those plans here if you would like to see them, but you can take my word for the fact that that was approved in 2016. That provides for a development on the site commensurate scale to what you've got now with a different arrangement.

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In the subjective view of every architect in the world, this one is better, that one was worse. But this comes forward as a response to the control but also to try and improve amenity aspects to the adjoining properties. Now, if you have any other questions on isolation, I'm happy to address you on those but, fundamentally, we say it's not an issue by dint of the fact there's already an existing approval on the site which we could redevelop without number 11 and also in view of the fact that there's been offers made well above the market value of that site already. So you probably ask yourselves why am I here today?

15 MS TAYLOR: Yes. Why are you here, Mr Sonter?

MR SONTER: Ms Taylor, you ask me that every time I come and address you at a panel meeting. So - - -

20 MS TAYLOR: It must be a good question then.

MR SONTER: Indeed. So the reality is that a class 1 appeal has been filed. I've read the assessment report, as has my team, in terms of the matters that council have identified as being in issue. Now, if you go through it, which I'm sure you have, you'll see that the site is an interesting one. It falls from five metres from the street level to the rear of the site where it adjoins a lower density zone. There are relationship issues which my client has sought to address by adopting the additional three metres called for by the ADG in terms of setbacks. Now, the issues that the report identifies, in my view, can be summarised by built form and height, the issue of tree retention, the issue of equitable access, the issue of streetscape and what is essentially an unobstructed path through the site.

That is, if I'm going to enter the site at the street level, am I going to have to walk down five metres through the site into a blank wall or will I be able to view the lobby? And the final issue is one of architectural resolution in its design. Now, what I'm sitting here to try and do today is to seek your indulgence. These are often matters which the report itself identifies at page 486 which in the normal course would form the subject of a conciliation conference as between the counsel and my client. These matters that are identified here are eminently capable of resolution. And just to put that in context, my architect for the applicant has come up with some simple resolutions to those matters.

For example, maximising tree retention has been unable to be resolved in that application that's before you as a function of disabled access ramp that runs down on the western frontage adjoining the street. There are three different ways to skin that cat, one of which includes removing the ramp and providing for an equitable access down adjoining the staircase which frees up the space which is a terrible streetscape

outcome which has been identified by the report and the ability to maximise tree retention. That's just one example out of the five issues that I've identified that is something that would be very easily resolved, should the applicant be granted the ability to sit down with the council staff to talk through these.

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My client has instructed the architect to come up with a set of plans that seeks to address and resolve these items, for example, the height of non-compliance which is actually identified in the middle of the site, not adjoining any of the site boundaries, is one which is simply resolved. Yes, there will always be a lift overrun that punches through that, but the impact of that lift overrun on any of the adjoining properties for the internal amenity of the site itself is minimal to non-existent. There is an area of residential floor space there which is easily sliced off and removes two of the issues in terms of storage and also non-compliance with the height control. Finally, the applicant has proposed in the plans, there is actually a punctuation through the built form.

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It just doesn't align with what you can see from the street. It would be a simple matter to say, "Let's shift that break in the building to a break in the building that can be seen directly from the street that would be able to, I suppose, run people's eyes through the site to have a break in the built form. It would address a whole lot of issues and it's something that's simply done. I've got plans here that identify it. I'm not asking you to identify and assess those plans on the run, just a function of showing you that these are matters that can easily be resolved should we be given the opportunity to sit down and talk with council's planners about it. The final thing is architectural resolution.

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Council's DCP calls for eight metre bays. This is something you could almost put a condition on to do. It shouldn't form the basis of a refusal of an application especially in circumstances where the site has an approval on it already. What we're looking for is an opportunity to engage with council, sit down and do the things that council's own policy calls for in circumstances where there are issues identified that are capable of resolution. And if I can just quickly read from the report itself, it's at page 486 by your reference, and it says:

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35 *Conciliation conference –*

and so:

At the end of December 2017, council resolved that if there was more than seven unique submissions that formed an objection relating to a DA during the formal notification period, council would host a conciliation conference in council's offices. The application received 15 unique submissions during the formal notification period and, as a result, a conciliation was required to be held. Council's position is that because a class 1 appeal was filed, they did not hold that conciliation conference.

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As you know just as well as me, council's ability to determine a development application is maintained until such time as a court determines it. It's not uncommon for me to sit before this panel and ask that the council representatives be able to discuss with my client while a class 1 appeal is still on foot. It's had good results in the past with this same panel in the ability for the people at council to identify their views on a without prejudice basis with my client in a forum that their own policy calls for. So all that behind us, what I'm asking for is if you would indulge us to defer the matter and identify that council be able to convene this conciliation conference, called for by its policy, so we could sit down and try and work through these issues.

These issues don't need to be the subject of a class 1 appeal and can be readily dealt with through architectural amendments to the plans as part of this process. Notwithstanding that I'm in the industry of running court appeals, I don't think my skills are actually required here. This is something that could genuinely be resolved without it spending resources on running a court appeal. Okay. I have a vested in, sure, running a court appeal but I don't need to do that in this circumstance and I sit here honestly and tell you that these things are capable of resolution if you put the planners from council to sit down with the applicant to work through these controls.

MS: Can I just say one thing? The word conciliation to me doesn't – in this instant, doesn't mean the same as the court one. It's a bit – a very – it's - - -

MR SONTER: I - - -

MS: They call it that but it's not - - -

MR SONTER: I - - -

MS: It's not what – kind of, what you're explaining.

MR SONTER: I agree.

MS: Yeah.

MR SONTER: And that is the way in which I am using it. I'm not referring to it as a section 34 conciliation.

MR: No. No.

MR SONTER: I'm genuinely referring to it as a meeting of the minds which is what - - -

MS: Yeah.

MR SONTER: As I intended to do.

MS: No, no. It's literally just a chat between the councillors, the objectors and the applicant.

MR SONTER: Correct.

5 MS: That's what it is. It's not a - - -

MR: There's no formal interpretation of the meaning.

10 MS: It's – yeah. It's not a – it's not a - - -

MS TAYLOR: Okay. Okay.

MS: It's not a meeting of the minds.

15 MS TAYLOR: I think we know what you're talking about.

MS: Yeah.

20 MS TAYLOR: And we know what you're talking about. We've been around the place long enough.

MR SONTER: So I don't mind which way you put it. Give my client an opportunity to amend its plans and talk to council's planners about the issues that they've identified and raised here. It's a matter that is eminently capable of resolution. If, for example, you were minded to make it a more formalised process and say, "You should sit down with the council in the normal course to run through this," in my view, there's definitely an outcome that could be done. Practically speaking, how does that work? Council staff have identified the fact that they don't want to put on their statement of facts and contentions as yet because they are at the direction of you guys.

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The section 34 is not listed until May next year, so we have a lot of time in which we can do this. You laugh, that's right. The timetable – anyway. But that's the case. So the timetable in court can definitely accommodate it. There's no requirement that council go to the expense of putting on facts and contentions now in relation to this material. There's an opportunity for us to sit down with council. As you well know, the court practice note now defines that prior to a formal mediation, parties should sit down on an informal basis anyway. This is a great opportunity to do it. There's a real opportunity to save legal costs of time in the court process if you give my client the opportunity to sit with council. These issues that are raised, in my view, are things that are capable of resolution. I've sat in many section 34 conferences with a list of issues that are way worse than that and walked out with a resolution. So I'm happy - - -

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45 MS TAYLOR: Three minutes is up.

MR SONTER: So I imagine – I imagine it is. But the – I have my architects here
- - -

MS TAYLOR: Yes.

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MR SONTER: - - - along with my client. He's got some plans and if he – if you would indulge him just a few minutes, he can show you that the issues that council have raised can be easily resolved on a set of plans through a range of minor amendments that don't – wouldn't require a whole great deal of reassessment and that respond directly to the issues that council have raised in their report.

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MS TAYLOR: Well, would these plans by any chance make it a complying building?

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MR SONTER: Not in totality. As I said, there will always be a lift overrun that cuts through the middle of it and that's a function of – as I indicated, you've got a fall on the side of five metres. There's a requirement to bench levels through the site.

MS TAYLOR: Yes or no.

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MR SONTER: No.

MS TAYLOR: No. Thank you. Right. Council, would you like to respond in any way?

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MS: We actually haven't received any amended plans, obviously, to date, so
- - -

MS TAYLOR: I understand. Yeah.

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MS: We're happy to look at them and if need be have a meeting with the applicants, but I don't think in the context of a full conciliation meeting, it would be very helpful.

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MR SONTER: Okay. Can I just ask – so just on the amended plans at page 486, it identifies that council hasn't requested amended plans:

Amended plans have not been requested of the applicant who has lodged an appeal with the Land and Environment Court.

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Look, I'm ultimately in the panel's hands. It would seem to me that the issues that are identified in the report have been considered, thought through and identified. If there are resolutions to those, it would seem an easy process to sit down with council to try and resolve those and go through it. I'm happy – look, it's probably better if I pass to my architect because, you're right, my three minutes are definitely well and truly up. Just to explain to you how they might be resolved, a deferral of the matter for three weeks or four weeks in the big scheme of things, given that the court

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hearing is not until next May, doesn't seem to be any prejudice to anyone. It doesn't force you guys - - -

MS TAYLOR: It costs money and time of the staff.

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MR SONTER: Well, that time will be forced to be incurred anyway in terms of a - - -

MS TAYLOR: And will be because you've gone to court.

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MR SONTER: In terms of a statement of facts and contentions that has got to be provided. I'm offering an opportunity to not have to involve the legal representatives to prepare a statement of facts and contentions and to have a meeting as between the parties without the legal costs associated with doing that as an option other than addressing to court.

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MS TAYLOR: Okay. You've told us that. Don't tell us all again, please. Thank you.

20 MR SONTER: I'm happy not to.

MS TAYLOR: Let me just check with the panel. Do we want to hear from the architect about changes to the plans?

25 MR: I'm not sure.

MR THORP: Well – yes. I would like to say something if I could, please - - -

MS TAYLOR: Yes.

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MR: Yes.

MR THORP: - - - in relation to this. I spent most of last weekend getting to know the proposal and I'll be very frank about where I got to – and I said that to my colleagues on the panel today. And that is that I felt the design had a lot that was going in a very, very positive direction. I felt that there were some issues that have been highlighted in the council report as being non-compliant and, for the sake of argument, 50 per cent of them I put a line through and said, "In the scheme of things they're not deal breakers." And the position I ended up in was that I felt I could not come here today and say to my fellow panel members that I believed that the design or the application, as it stands, that I could not support it.

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That there were some things there that really needed to be altered before I could say, "I think, you know, this can go forward." So your offer to me makes a huge amount of sense. I mean, I am one of those people – I mean, yes, I've retired from practice but I've done a lot of negotiating in my life on projects all over the world. And I think if both parties can come to an issue with goodwill and a very firm

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determination that the public good is one of the things that really matters and is – and often is not represented. I mean, people take up shields and spears and swords and, sort of, fight each other which is not the way to do it, I think. So I would be very interested to hear from the applicant’s architect myself and I think – you know, I think there’s – there is the potential myself – I mean, it depends on the issues anyway.

MR SONTER: And, obviously, we’re happy to hear that you see merit in some aspects of the - - -

MR THORP: Well, that’s - - -

MR SONTER: There are some deal breakers for you, so - - -

MS TAYLOR: We’re happy you’re happy. We’re going to hear from Mr Dickson.

MR N. DICKSON: Thank you, Mary-Lynne. Good to see you all, panel members. I have five sets of drawings which I’ve put together with my staff which show possible changes which address the principle themes in the council’s report. I’ve attended the design review panel meetings myself and I appreciate that, as with all matters, this is relatively complicated and complex.

MS TAYLOR: Just before you start, I’m going to explain what’s going on here. Ladies and gentlemen, this matter has been referred to the Land and Environment Court. So if the applicant doesn’t like what we say here today, then he’s got another place to go to where he may or may not be successful. You’ve heard that what they actually want to do is talk to somebody about it before they actually go to court because there is a long delay in court cases at the moment. So this is something that never happens. We never take amended plans on the day because we can’t – we can’t deal with amended plans. It’s always got to be assessed by the council. That’s what the law says. However, as they are coming here, I invite you to come and sit here with us and hear the explanation. If you’d like to bring your chairs forward.

MS: I certainly would. Thank you very much.

MS TAYLOR: Council, would you like to come over, too? Would anyone like to come over? If you don’t want to - - -

MS: Is there a copy that they can just give us?

MS TAYLOR: Is there a spare copy?

MR DICKSON: I’ve brought five.

MS TAYLOR: Okay.

MR DICKSON: I can give you a copy.

MS TAYLOR: There's one for the council.

MS: It's just a bit easier if we could also - - -

5 MR DICKSON: And I will - - -

MS TAYLOR: Why don't you bring the chairs forward?

10 MR DICKSON: - - - try to refer to the panel's comments. So I'm slightly - - -

MS TAYLOR: Right. Move that off there. Give – could that lady sit there.

MR: I don't think we need - - -

15 MS TAYLOR: Now, this is not going to be a discussion. This is going to be the architect telling us what he thinks he might do. So - - -

MR SONTER: So we're not asking the panel at all for the - - -

20 MS TAYLOR: No.

MR SONTER: We're just - - -

25 MS TAYLOR: Bring your chairs forward and sit. Sit down here. Up close. Nice and close. Come on. Close, close, close, close. Yes. All right. Okay. We've got copies in front of us.

MR DICKSON: Perfect. Now, members, my name is Nigel Dickson. I'm a registered architect in New South Wales and registered planner. I'm frequently in court, but I taught the urban design program at the University of New South Wales for 20 years. On this side of the table, I have the existing consent which is operative from December 2016 – 2015, sorry.

30

MS PAGE: Is that the second or the first DA?

35

MR DICKSON: This is the one that was consented on - - -

MS TAYLOR: An approved DA that's been - - -

40 MR DICKSON: - - - 2 December.

MS TAYLOR: - - - put into the council and already approved.

MR DICKSON: It's not the subject of this meeting today, but I just - - -

45 MS PAGE: No, no. Yes.

MR DICKSON: - - - have it there for reference because it was designed to look – the DCP.

MS TAYLOR: Right.

5 MR DICKSON: As the design architect and - - -

MS TAYLOR: Where's the street here?

10 MR DICKSON: The street is here. This is Essex Street.

MS TAYLOR: Essex Street. Right.

MR DICKSON: The Shu house, number 11, is here.

15 MS TAYLOR: Yes.

MR DICKSON: And the cul-de-sac and the rear property is here.

20 MS TAYLOR: Right.

MR DICKSON: Now, a feature of the Hornsby DCP is relatively small setbacks to the sides. These are consented to - - -

25 MS TAYLOR: Now, Mr Dickson, you were going to tell us about the new plans.

MR DICKSON: I'll go to this plan.

MS TAYLOR: I don't want to go into history.

30 MR DICKSON: No. So, Ms Taylor, the scheme is – has – have the ditch go along the front of the building. It had level carparking and we have an L-shape building. So the essence of this is not changing the substantive part of the design. But the drawings I'm bringing forward right now deal with the things that Mr Sonter took you to. It was largely – the retention of the landscape along Essex Street, keeping the existing trees and one of the devices in doing that is to remove the long ramp which was in this location that aggravated privacy to that unit. We have deep soil across there. There was no reason why and I agree with the SEPP 65 panel: the majority of that landscape cannot be reclaimed. So we have a driveway.

35

40

45 There's a bin-handling area, but all that is thick soil, so those existing trees can be retained. The second theme that runs through the different chapters of council's report is the ability to move through the site in a way that's non-discriminatory. Contrary to that application the amendments, I think, would now show a way in which you can have a set of stairs and stairs with inclinators on those stairs. And I take you to – towards the rear of the SEPP and there is a section. And I think it's

important that someone standing at the front door of the site can have a clear line, described by a green line, and look entirely within the project to the - - -

5 MS TAYLOR: They can do that now or they can't do that now?

MR DICKSON: They can't do that in this consent.

10 MS TAYLOR: No, but you're not – we're not dealing with that consent. We're dealing with - - -

MR SONTER: The only way you can do that is if it's in the current form.

MS TAYLOR: Right. What we're looking at here is about the changes.

15 MR DICKSON: And so you can look to the lobby and you can look through there.

MS TAYLOR: Okay.

20 MR DICKSON: So the third change – and this is recommended from the Design Panel once we got the minutes from that panel. That was very helpful. They suggested that we make a clear break in the building, similar to this break, and enable a separation. And once the DCP had a feature of a four by four indent – so the device here is to try and make a clear device, break the mass of this building. It's fortunate that that line of sight is one that down and see if that entrance enables
25 someone to look through and see the landscape beyond. That would be at all levels of the building, so it's metaphorically pulled apart.

The council's report makes a very good clear point about non-discriminatory access, so anyone entering this building can access building A, building B and building C.
30 There's a point where clear directions are possible. So it's allegedly towards three buildings. Now, other tendered matters in the council report talk about the over-height of the building. It's largely caused by building mass at this point. And they're also underlining that by saying there's no communal open space on the rooftop of this building. So it's proposed to reduce the height exceedance which is
35 primarily at that point by making that a communal open space. It can be achieved for everyone who is in that building. So instead of them having to go down, transfer across to the lobby to access the communal open space, the communal open space can be achieved.

40 MS TAYLOR: Height – what's the height?

MR SONTER: Under the 17.5.

MR DICKSON: Under the 17.5.

45 MS TAYLOR: In relation to this house here?

MR DICKSON: Yes. That is a single-storey house.

MS TAYLOR: I know what that is. I'm saying – if you're going to put something on there that will be overlooking – or looking into this property here.

5

MR DICKSON: Depending on the nature of that wall, Ms Taylor, we can have a privacy screen across there. We are at nine metres separation across there. But I don't see a reason why you can't have people help out from that boundary wall. So the height claim diagram at the back of the SEPP shows the changes that we've lost, which will reduce that. It's the parapet walls which could be inset or made in glass in different materials to pull the view of that as well.

10

MS PAGE: What's the orientation of that picture? We think it's - - -

MR DICKSON: I understand it's a little hard to understand, but this is building A here and then building B and C in this location.

15

MS TAYLOR: And where is Essex?

MR DICKSON: Essex Street is back here.

20

MS TAYLOR: Essex is here.

MR DICKSON: And this is a theoretical development on Zhou's property at 11 Essex Street.

25

MS PAGE: So there's no reduction in height in the back? No changes in - - -

MR DICKSON: The height exceedances are currently the lift overruns in these which are not just coming up as boxes, but are clad in the timber clad material. I turned up but, primarily, the communal open space is formerly – see if it's shown in the actual habitable space. So to substantiate that I will take you to the sections which show sections at different points of the site. So there's the overrun. There's a small area of exceedance shown at that cut line on section 88.

30

35

MS PAGE: Yes. So it's – is this – yes, a cut - - -

MR DICKSON: And the red line is the natural ground level.

MS PAGE: And what I mean is we have all these, like, glass windows.

40

MS TAYLOR: Yes, okay, thank you.

MR DICKSON: I understand. I will just take you to the other section.

45

MS TAYLOR: Where is Essex Street on this one?

MR DICKSON: Essex Street is here, Madam Chair.

MS TAYLOR: Okay. Thank you.

5 MR DICKSON: So there is, as Matt Sonter said, the six metre fall. Could I take you to the next section? That's the one I referred to earlier. The height exceedance is – a matter of architect element there and we look over here. And if I take you to the section CC, the height exceedance just that parapet, so that location, the small location there.

10

MS PAGE: Can I please clarify, if the height is taken from the ground or from the street level?

15 MR DICKSON: The height level is described by the red line, which is the natural ground level between that edge of the site and - - -

MS PAGE: So it's falling - - -

MS TAYLOR: Natural ground level.

20

MR DICKSON: It is falling six metres. Yes.

MS TAYLOR: See here the line. The street. Falling downwards.

25 MS PAGE: Okay. So it's measured from the ground at the back as well?

MR DICKSON: Yes. Existing natural ground level at the time of the survey.

MS PAGE: The plans with the dotted line make it - - -

30

MS TAYLOR: The dotted line. See here.

MR DICKSON: Yes.

35 MS TAYLOR: The dotted line. Ground level, dotted line site. So it goes up all the way. Okay.

MR DICKSON: Now, Madam Chair, part of council's concerns was the presentation of the building. It comes from the Design Panel. They did not like the horizontal treatments. We had proposed earlier on a different aesthetic which was taking some of the very similar previous consent and taking it through. Council's concern was in part too that we should retain the vegetation. So this montage I've brought forward today shows from a photograph – these are the trees on the site now - - -

45

MS TAYLOR: Is that Essex Street?

MR DICKSON: - - - in Essex Street.

MS TAYLOR: Yes.

5 MR DICKSON: We've numbered trees in accordance with the LEC policy on
photo montages: the approximate height of each tree: shown as a wireframe
diagram and then taken through to identify those subject trees. So if we retain the
trees it's our opinion – and these are, obviously, our six different questions done by
our staff using wireframes over 3D models. The appearance of the building would
10 be more of that nature. In my opinion, the retention of the landscape across here,
where we have the big self-planting is most substantive thing to do on the site. It's a
raw vegetative site. And it was respectful hearing the comments from the neighbours
that they put weight on that. I thought – I agree with them.

15 MS TAYLOR: That's Essex Street. What about at the rear?

MR DICKSON: At the rear of the site, Madam Chair, we take guidance from the
ADG, which has a guidance comment on the building separation to increase another
three metres on a zone separation. So the zone separation there is increased to nine
20 metres. And then above the fourth floor in accordance with Building Separation
Clause 3F of the ADG, we increase a further three metres so the building is set back.
So we are strictly in accordance with the ADG.

MS PAGE: What's the purpose to get that management proposal?

25 MR DICKSON: I wish I had a magnifying glass.

MS TAYLOR: At ground level?

30 MR DICKSON: It is nine metres at ground level from boundary to there. Madam
Chair, I - - -

MS TAYLOR: This is the back of the building here where my pen is. So 15 metres
back is the view down here.

35 MR DICKSON: And, Madam Chair - - -

MS PAGE: Sorry. 15 metres - - -

40 MS TAYLOR: It is nine metres.

MS PAGE: Yes.

MS TAYLOR: And when does it become 15 metres?

45 MR DICKSON: It becomes – above the fourth floor it becomes 15 metres.

MS TAYLOR: So for four levels nine metres and then it steps further back.

MR DICKSON: And we're strictly in accordance with section 3F of the ADG. Now, Madam Chair, I know I'm not here to talk of the previous consent, but I've got
5 it open in front of you and you can see the dimensions are vastly different on that boundary previously.

MS TAYLOR: They're closer. Yes.

10 MR DICKSON: I'm not here to talk about that, but we're seeking strict compliance with the ADG. And using the design guidance on the Zone boundary that we increase that further.

MS MA: So what's – what's decides that factor?
15

MR DICKSON: The design setbacks, again, are strictly in accordance with the ADG.

MS TAYLOR: Which is?
20

MR DICKSON: I can't read the number. It's – six metres – no, I think it's - - -

MR: I think it's nine. I think it's nine.

25 MR DICKSON: Nine metres.

MR: It's the same as this. No, that's 12.

MS TAYLOR: That's 15. That's 15.
30

MR: Yeah, it's the same as that on the lower level one, yes.

MR DICKSON: And that's nine and it starts out at six.

35 MR: Okay. So it goes from six to nine metres high.

MR DICKSON: Now, I'm not here to talk about that, but it's vastly different. It's a lesser number by far.

40 MS PAGE: So this is six and the next one is 9.

MR DICKSON: And then it goes up to nine above the fourth floor.

MS PAGE: Okay.
45

MR DICKSON: In accordance with the ADG.

MS PAGE: No, the ground level.

MR DICKSON: Six.

5 MS PAGE: Six.

MS TAYLOR: Because they are six.

MS PAGE: So that's not compliant with the DCP.

10 MR DICKSON: No, the DCP is actually four. The ADG is six. The ADG is more onerous than the DCP, which was that - - -

MS TAYLOR: The ADG is the apartment design guideline, which is only a guideline, but it's what's suggested in terms of setting buildings apart so that people can have both – on both sides of the boundary can have enough space.

15 MS MA: So what's the minimum distance between the two buildings? Which – how much left for us?

20 MS TAYLOR: Six metres here. You will know what's on your side. But it's six metres on the other side. Remember, we're not here to question them.

MS MA: No. No.

25 MS TAYLOR: We're here to learn what they're suggesting they might do.

MR DICKSON: Yeah.

30 MS PAGE: And in terms of the vegetation at the back, is there any possibility of keeping some of the very large - - -

MR DICKSON: Look, there is a possibility. We have the self-planting through there, so there is the potential. We have an arborist's report that found termites in his opinion in a tree in that location. Council's landscape specialist thought it was a different type of termite, so there is a dispute about the large eucalypt you may have seen on site in this location.

35 MS TAYLOR: So is there a landscape plan of any kind on anyone?

40 MR ZHOU: Excuse me, just one thing. Because my building is quite close to the other one.

MS TAYLOR: Landscape plan.

45 MR DICKSON: Yeah.

MR ZHOU: Yeah. We just – yes, that’s mine. And we can see through this way. We can see through this way. And if you’re kind of living in this house you are We are living in a glass box.

5 MS TAYLOR: This is what they’re proposing. What’s this here? Is this a pathway?

MR DICKSON: It’s the access way for maintaining the landscape around the site. They’re the stepping stones.

10 MS TAYLOR: Wouldn’t it be better on the other side along the boundary, the planting?

MR DICKSON: It can be rearranged, Madam Chair.

15 MS TAYLOR: So that’s you there. See.

MR ZHOU: Okay. Yeah.

20 MS TAYLOR: So there’s some planting along here.

MR DICKSON: Yes. They mention an easement. The requirement here is to create an inter-allotment drainage easement which has been designed and it was part of the consent that that be brought forward. The same manner would require an inter-drainage easement which would be in that manner. It can also serve the Zhou property if it’s ever future developed and that’s a matter that could be potentially agreed between the two property owners.

25 MS TAYLOR: I think that’s the least of our worries at the moment.
30

MR DICKSON: Exactly. I just - - -

MS TAYLOR: We’re looking at a large building.

35 MR YAP: May I ask a question, please? The second page there – can you turn to the second page. I only see, like, three – three there along the back. Is there going to be eight or is there going to be some planting there along - - -

MR DICKSON: This is the landscape plan, sir, and this shows the - - -

40 MS TAYLOR: Can we have it closer?

MR YAP: So there’s going to be - - -

45 MS TAYLOR: So which is your property, Mr Yap?

MR YAP: Yeah. Yeah.

MS TAYLOR: Which is your - - -

MR YAP: Never mind, my property is just here, on the side here.

5 MS TAYLOR: Back here.

MR YAP: Yeah.

MS TAYLOR: Who is this?

10 MR YAP: So that's my - - -

MS TAYLOR: Is that you?

15 MR YAP: No, that's my neighbour.

MS: No, no, we're in this corner.

MS TAYLOR: Okay. You're there. Right. You're there.

20 MR YAP: Yeah.

MS TAYLOR: So you're over here.

25 MS: The retaining wall runs along there.

MR YAP: Yeah.

MS TAYLOR: So explain these trees to us, if you can, please, Mr Dickson?

30 What's going on?

MR DICKSON: I'm not the architect, but these trees are noted here with a symbol "to be retained". And, obviously, that's a tree on an adjoining property. It's very significant. There's an opportunity to retain that tree and there's an opportunity to retain all of these trees. There is a difference of opinion between our experts and council about in that location there.

35

MR YAP: But you're saying an opportunity to retain and - - -

40 MR DICKSON: Council would like us to retain the tree. Our expert - - -

MS TAYLOR: But what's happening underneath there? What's - can we have a look at the basement plan?

45 MR YAP: Yeah, there's a basement - - -

MS TAYLOR: Have you got a basement?

MR YAP: Do you want this one?

MR DICKSON: Madam Chair, here is a basement plan. It's a single level basement which is different from what was previously consented and it is - - -

5 MS TAYLOR: Where is it on this plan? Where is that corner on this plan?

MR DICKSON: I believe it would be the – I believe it is here. It has seven metres there: seven metres.

10 MS TAYLOR: I see. This is it here.

MR YAP: The basement there, yeah. That does - - -

15 MR DICKSON: That's right. So the - - -

MS TAYLOR: So the opportunity – when they say the opportunity to retain, from there to there is deep soil planting.

20 MR DICKSON: Deep soil.

MS TAYLOR: So that means they're not digging it up.

MR YAP: Okay.

25 MS TAYLOR: They're retaining it. Because this is the basement from here. So along that – you were concerned about there and there.

MR DICKSON: So that's the soil. And that's correct.

30 MS TAYLOR: Yes. And that seems to be retained by looking at this basement plan. Okay.

MR ZHOU: Excuse me, I have a question. Regarding the earthwork of when you're digging the garage and did you do any investigation whether it would affect the building along the - - -

35 MR DICKSON: It's my – the only comment, there's an architect to that question through you, Madam Chair – that we are, in my opinion, outside the zoning influence from any buildings in that area. From a structural point of view to destabilise your footings I do not think there is an issue.

40 MS TAYLOR: And probably – if anybody gives an approval there will probably be a requirement for a dilapidation report, so people will go around and photograph your properties and compare before and after.

45 MR ZHOU: Okay.

MR: If an engineer considered it was in the zone or whatever.

MS TAYLOR: Yes, so somebody will identify the properties that are likely to be in that zone.

5 MR THORP: Could I just say – I mean, the probability, of course – whether you’re excavating rock right there or right here, the vibrations will still be felt.

MS TAYLOR: From the outside.

10 MR THORP: Yeah. I mean, that’s inevitable.

MS PAGE: So who generates the dilapidation report? Sorry, who generates the request? Is that from the developer or - - -

15 MS TAYLOR: No, no, the council - - -

MR DICKSON: It’s a council requirement.

20 MS TAYLOR: The council imposes a condition. Or if it goes to the court, the court usually adopts the council’s conditions. So that’s a condition. Then the person who is running the site, the certifier, has to ensure that everybody has done all of those things.

25 MR SONTER: So there’s a requirement that you must do it before you hit the ground build. And once it is finished building before you can let people live there they’ve got to come and look at your - - -

MS TAYLOR: So they will come and knock on your door and ask and if you say “no” it’s not a good thing.

30 MR SONTER: That’s right.

MR: I want to be able to make a direction – I think an installer who manages the vibration. Because, I mean, the rocks and the with that vibration right through - - -

35 MR THORP: Well, yeah. I was trying to say that I think that the vibration in ground rock is inevitable.

40 MR YAP: Yeah. So it’s more important to make sure you’ve got a vibration monitor there instead of just not measuring at all.

MR THORP: I mean, I – we’re - - -

45 MR DICKSON: That’s very common when you’re very close to an adjoining building that’s being excavated or something or something like that. It’s common to

do that. You're not quite as close this time. I think council would – if they determined that it was important or relevant they would require it to be done.

MR THORP: I'm talking to the gentleman here.

5

MR ZHOU: Yeah, I'm very close. Yeah, I'm very close to the – you know, the building - - -

MR THORP: But is your concern - - -

10

MR ZHOU: Yeah.

MR THORP: - - - the damage to your property, or it's a concern – the noise level when it's happening?

15

MR ZHOU: Damage to my property. That's the bigger concern.

MR THORP: Right.

MR ZHOU: And also the safety issue during the construction. Yeah. Actually, it's the same question. Yeah. It's the same concern. The safety.

MS PAGE: So one of the things that you didn't articulate, I think – and we might have missed – is the building – the common boundary of Rongpin's property with the building site is actually a building. So it will get demolished leaving – then, obviously, they will put in a construction thing. So there's nothing solid there.

25

MR ZHOU: If you look at the layout my property is very close to the other building. And also – you know, just the three metres. Very, very close.

30

MS PAGE: My property is just next in - - -

MR ZHOU: Yes.

MR SONTER: Can I cover this off in terms of construction issues. My role is I act for property developers and as part of every development concern I have ever worked on prior to the construction being able to commence - - -

35

MR ZHOU: Yeah.

40

MR SONTER: - - - a professional who is independent is required to come to your property and assess it. There will also be a requirement for what's called a construction management plan. I don't control that. My client doesn't control that. The council will end up having to sign off on that and that will provide the details such as structural adequacy of the wall that you've talked about adjoining your property and also require us to come into your property. If you've got a three centimetre crack in your wall already there will be a photo of it and a measurement

45

taken before construction and then after construction they will come and take a photo of the same thing. And if it's bigger they're going to have to pay to fix it.

5 MR ZHOU: Yeah, yeah, I understand there's a process. Because previously 7 to 9 Essex Street - - -

MR SONTER: Yeah.

10 MR ZHOU: - - - has been built. We've been through the process. And once we said, okay, yes. And then we're kind of going through the whole uncomfortable and unfair situations.

MR SONTER: Yes.

15 MR ZHOU: And then the building is vibrating when the hammer is hitting the ground and the - you know, the crane just is standing over our - you know, building. And we just moved from one bedroom to another bedroom just to - trying to - - -

20 MS TAYLOR: We do understand and you have told us that.

MR ZHOU: Yeah.

25 MS TAYLOR: And we're not dealing with construction impacts. You might talk to the council about that some time. Today we're talking about plans to build something.

MR ZHOU: Okay.

30 MS TAYLOR: And there is going to be a construction impact on - whenever anybody builds anything, including when your house was built. So we're not talking about that right now. What we're talking about is what might be built here.

MR DICKSON: So, Madam Chair - - -

35 MS TAYLOR: Yes.

MR DICKSON: - - - I've tried to summarise five sets of changes that can be made to the plans.

40 MS TAYLOR: Okay. The council also expressed concern about the underground nature of the lower floor.

45 MR DICKSON: Yes, Madam Chair. And that was in particular in relation to that unit, I understand. And also that unit here. When we inspected that unit - it has more than three hours of solar access throughout the winter solstice and this one we addressed by - we didn't think any change was required. But this one we agreed with council's view that that unit was impacted by the ramp in that location. So we

believe that removing the ramp was an important benefit to the amenity of that unit. It has wide open decks around it, so we don't think it's an amenity for private open space, but we just want to take away the overlooking that was the underlying problem.

5

MS TAYLOR: Overlooking or the underground nature of the units?

MR DICKSON: No. The unit here is set below ground. There's no question about it. But it has a northerly aspect and in our opinion a very good amenity. It's well-separated from the boundary and there's good landscape around it. So that was one we understood was an issue. And the second one was that one which was slightly low-set, not as much as that one, but it was – its proximity to that land.

10

MR SONTER: The upshot of all of this is we think there are changes and amendments.

15

MS TAYLOR: It didn't sound like many changes to me.

MR SONTER: Mr Dickson tried to - - -

20

MS TAYLOR: It sounded like a lot of argument about why the non-compliances were okay.

25

MR SONTER: Well, maybe we heard a different speech, but the idea is that there are fundamental changes that we can make, relatively simply resolved. It appears that there is this opportunity now to do it. We're, ultimately, anyway - - -

30

MR DICKSON: Madam Chair, through you, I've tried to explain that there are matters that are to be done to improve the amenity at the front of the building. It's then the potential overlooking but the retention of landscape has major benefits. And then simple amendments to the matter of circulation through here.

35

MS TAYLOR: I don't need to hear one more word about that. I think it's of a benefit to your property and why wouldn't you do it? So I don't need to be convinced. But it's an enormous benefit to the people around – so, yes, no more about that.

40

MR DICKSON: Yeah. Okay. Then we've reduced the height of the building where it exceeded the control place. It was the major non-compliance. We've turned that into a communal open space which benefits the users of that building.

MS TAYLOR: All right.

45

MR DICKSON: That reduces the non-compliance. And then there's no non-compliance on communal open space FSR, but – and I've just done these ones to show you where there is very minimal non-compliance.

MS TAYLOR: Yes, thank you. I understand that. Anything else new you want to show us?

5 MR DICKSON: No, I've taken you to this drawing, which shows the improved line of sight and public benefits that arise from further access through the site.

MS TAYLOR: Benefits to you.

10 MR DICKSON: To the broader public, Madam Chair.

MS TAYLOR: That's right. Well, to the people who is in sight - - -

MR DICKSON: Yes. And then - - -

15 MS TAYLOR: - - - many of which are sitting around at the table.

MR DICKSON: - - - I've taken you to this, where we've clarified the height of the building in relation to the height exceedance.

20 MS TAYLOR: Thank you. Anything else?

MR DICKSON: This is a new drawing.

MS TAYLOR: Council, do you have any questions you would like to ask?

25 MS: Not at all.

MS TAYLOR: Thank you. All right. Okay. You've explained that to us. Thank you, Mr Dickson. Yes, one more question.

30 MS MA: And it's the very last.

MS TAYLOR: Yes.

35 MS MA: Because you say – you say with all this building that just reads the letter – we don't going to have any windows.

MS TAYLOR: You don't want all the windows. All right. Okay. Do you want to explain that, Mr Dickson? How are you going to stop overlooking of this lady's property?

40 MS MA: Yeah.

45 MR DICKSON: There's two devices – systems and then physical measures that you can to effect the windows. These ones don't overlook your building, because they're lower-set down below your house. This one we have the ADG separation distances and we have private open spaces here and there.

MS TAYLOR: So where are the windows? We would like to look at windows rather than - - -

5 MR DICKSON: The windows – windows – windows are along here. The landscape along this section is in accordance with advice, but - - -

MS TAYLOR: But the court says you shouldn't be relying on landscaping, though.

10 MR DICKSON: No. We also have the fence.

MS TAYLOR: Well, how high is the fence going to be?

MR DICKSON: 1.8 metres.

15 MS TAYLOR: 1.8 metres. And what height is this?

MR DICKSON: That is the level shown.

MS TAYLOR: Yes, well, explain that in terms of this lady's house.

20 MR DICKSON: Okay. I will text her the section in the - - -

MR ZHOU: Can you just also consider my – my property regarding the privacy as well?

25 MR DICKSON: Okay. I need to take you to the section which is section 404. So this is the section – this location here. So the section shows the line of the building. So the step there and there are these privacy screens which are, effectively, between boundaries. But the device can be done at the boundary, at the line of the balcony.

30 So this section is through that location. So we have the six metre site set-back. You have that stand and we have the opportunity to put - - -

MS TAYLOR: And how high are the screens?

35 MR DICKSON: They will be a full height along there and adjustable.

MS TAYLOR: What, between ground and ceiling of the - - -

MR DICKSON: Of that particular subject unit.

40 MS TAYLOR: Of the balcony?

MR DICKSON: In that unit in this location.

45 MS TAYLOR: Across all of them are do they move?

MR DICKSON: I would suggest they all be adjustable, but the windows - - -

MS TAYLOR: And if they adjust them and they're open then there's overlooking and if they're not open there's no overlooking.

MR DICKSON: Correct, Madam Chair.

5 MS TAYLOR: And no amenity into the balcony.

MR DICKSON: That's correct. They can be fixed and it's a question of locating and exactly the location that provides the line of sight to the windows of the adjoining property. So it's a matter of position and - - -

10 MS TAYLOR: Well, there's windows and then there's this outdoor area.

MR DICKSON: That's correct.

15 MS MA: So can I suggest – and this is, like, to be fair, half of – because later we're going to have windows. Right. So you give us, like, enough – with consideration they seem to say – so this – half of this you have with the other half. Other side of the – we have some windows or just – just - - -

20 MS TAYLOR: I think that's what – there will be balconies with screens on them. If it's approved there will be screens, so that they're not going to overlook you.

MR DICKSON: Yes.

25 MS MA: Well, all the windows – yeah.

MR DICKSON: No, they're as described on the elevations here. So - - -

30 MS TAYLOR: It's not clear on the elevations. Explain it to us.

MS PAGE: I mean, I'm just going by the pictures that are Because I couldn't see any blinds in the complex. That means everyone is going to have it on their balcony and it's going to look like - - -

35 MR DICKSON: Yes, there is no centralised blind, so - - -

MS PAGE: And it will look like Cambridge Street.

40 MR DICKSON: This is north-west elevation.

MS TAYLOR: Thank you very much. Members of the council staff, there has been a request by the applicant to have a further meeting with council and a deferral by the panel. What do you want to say to us about that?

45 MS: Yes, that's fine.

MS: Just so long, you know, that it won't be able to go to the December meeting, because any amendments you make would require advertising. And we've already kind of closed advertising for the year in accordance with the DCPs. So there is – it won't be a December - - -

5 MR JOHNSON: That means it's the February meeting.

MS: February would be the earliest, unfortunately, if there were changes to be made that required a readvertising of developments. You've literally missed the advertising days, because today is the last day for stuff to go in the paper. And it doesn't have the extended period.

10 MS TAYLOR: So it's a "yes".

MS: We don't have an issue with it, we're just letting them know that February would be the timeframe - - -

15 MS TAYLOR: So you won't be upset if we defer it so that you can have discussions.

20 MS: No.

MS TAYLOR: Members of the panel.

25 MR McLEAN: Yeah. I think that's - - -

MR JOHNSON: Yeah.

MS TAYLOR: Rick.

30 MR THORP: Very happy - - -

MS TAYLOR: Okay.

35 MR THORP: - - - to defer it.

MS TAYLOR: Okay. So, ladies and gentlemen, we've been asked by the applicant, as you know, to – will we defer this so that they can continue talking to the council.

40 MS PAGE: Thank you.

MS TAYLOR: And the council has said "yes". And, of course, if there is such a thing you will be involved. They won't necessarily call you in and ask your opinion - - -

45 MS PAGE: No.

MS TAYLOR: - - - but what they will do is the council are saying that they will readvertise the plans.

MR DICKSON: And you will be notified.

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MS TAYLOR: And, in any event, each of you can pick up the phone and ring the council and ask what's happening or look on the website.

MS PAGE: Which we're doing regularly because we're not getting council notifications regularly about that.

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MS TAYLOR: They don't tell you if you changes are good.

MS PAGE: Even if you're next-door.

15

MS TAYLOR: If the changes are - - -

MS: If the changes are a growth impact we're required to notify.

MS TAYLOR: Nobody does if the council considers they're good, so you've got to keep watching.

20

MS: It depends on what the level of the amendment is.

MS TAYLOR: Okay. That will be the decision of the panel today unanimously. We are deferring the application at the request of the applicant so that amended plans can be shown and discussed with the council in the possible hope that there will not be a court case. We understand the council will accept this deferral and will assist the panel – sorry, will assist the applicant by advertising when they can, noting that this is now in the Christmas advertising period which goes for a very long time. Ladies and gentlemen, thank you for your assistance today. I'm sure they have listened to all of the things you've said and we will expect to see plans that have dealt with all your concerns. Won't we, Mr Sonter?

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MR SONTER: Of course.

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MS TAYLOR: Thank you very much.

RECORDING SUSPENDED [5.48 pm]

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RECORDING RESUMED [5.49 pm]

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MS TAYLOR: Okay. We're doing the final matter, which was item number - - -

MR McLEAN: 229 Cumberland.

MS TAYLOR: Two.

5 MR JOHNSON: Is anybody here for all of those? No.

MS TAYLOR: Thank you to the council for their patience today.

MR JOHNSON: Well, if looks could kill.

10

MR McLEAN: It's all right, Madam Chair, security is out there. We're safe.

MS TAYLOR: Okay. This is the matter for Carlingford Joinery at 9 Cumberland Street, Epping. Is there anybody here to speak for or against this application? In that
15 case are we in a position to deal with this, Members of the Panel?

MR McLEAN: Yes, we are.

MR JOHNSON: Yes.

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MS TAYLOR: Do we agree to follow the recommendations of the staff as - - -

MR McLEAN: We do.

25 MS TAYLOR: Unanimously, approval for the reasons in the council town planning report subject to the conditions in the report without change. Thank you very much to the council's assistance today.

30 **RECORDING CONCLUDED**

[5.50 pm]