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CITY OF PARRAMATTA COUNCIL

RECORD OF LOCAL PLANNING PANEL MEETINGS

PANEL MEMBERS:

**DAVID LLOYD
JANE FIELDING
ALF LESTER
ANNE SMITH**

COUNCIL:

**CLAIRE STEPHENS
TOWELA MBIRIMI**

LOCATION:

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

DATE:

3.42 PM, TUESDAY, 19 FEBRUARY 2019

MR D. LLOYD QC: I think we can commence the meeting and I formally declare this meeting of the Parramatta Local Planning Panel open. In doing so, on behalf of the council, I acknowledge the Burramattagal clan, the Durag, the traditional land owners of Parramatta and pay respect to the elders both past and present. The next
5 thing I have to say is that this meeting is being recorded. The recording will be archived and made available on council's website. So that means you, anyone speaking, is recorded. That means you have to be respectful of everyone else in what you say. The council is not liable to defamation; you are. All right.

10 There are no apologies and the declarations of interests forms are now being signed and there are no declarations of interest. It's usual when we commence these meetings for us to introduce ourselves, so that you know who we are. I'm David Lloyd. I'm a lawyer. I'm a QC. I'm a former judge of The Land and Environment
15 Court. I'm a former acting judge of the Supreme Court and I'm currently an adjunct professor of law at Western Sydney University.

MS A. SMITH: I'm Anne Smith, and I'm the community representative on the panel.

20 MR LLOYD: Mr Lester.

MR A. LESTER: I'm Alf Lester. I'm an architect and I'm also an urban designer and town planner. I am principal of a firm known as a LFA and I do sit on a number of other design excellence and planning panels in Sydney.
25

MS J. FIELDING: I'm Jane Fielding. I'm a planner. I work at Architectus as a senior associate in planning and I also sit on a few other planning panels, as well.

MR LLOYD: All right. Well, with that, we can move on straight on to the first
30 item on the agenda. This is the proposed modification to an approved boarding house development at 34 Kissing Point Road, Oatlands. There are no objectors to this proposal. The modification sought is to increase the number of boarders from 12 to 17 by amending five single occupancy rooms to double occupancy rooms. There is a question we have of the planner involved in that matter about one of the
35 conditions. Now, you have to be recorded. You better come over here. You're going to be quizzed. Mr Lester has a question about one of the conditions.

MR LESTER: There was a change or a request for a change in the DA conditions so that maximum rents only apply if a land exemption was sought. You have any
40 advice on council's response to that?

UNIDENTIFIED SPEAKER: Okay. So the intent of the condition is that, should the applicants seek the land tax exemption, there's a maximum rate that they can charge. Council has – we have no objection to the change in wording as the intent
45 remains the same. As far as I'm aware, the applicant is not seeking to get the land

tax exemption and they wanted – the purpose of the modification is to clarify that condition. Yes.

MR LESTER: Okay.

5

MS SMITH: All right. Thank you.

UNIDENTIFIED SPEAKER: Okay. Was that all?

10 MR LLOYD: That's all, yes. Are you happy with it?

MR LESTER: I think so.

15 MR LLOYD: All right. The determination of the panel is unanimous and it's on the screen. There is a couple of changes we need to make. It should read that:

Parramatta Local Planning Panel, exercising the functions of the council as the consent authority, pursuant to the provisions of s.4.55 –

20 4.16 because this is a modification not –

4.55 of the EPA ACT 1979 modifies development consent –

25 whatever it is, and that is the determination. We have to add our reasons for decision. So there will be reasons for decision. First reason, the development is suitable for the site and will be compatible with the future desired character of the locality – “future desired character of the locality” – “of the locality”. That's paragraph 1. Paragraph 2, these modifications will not result in any adverse impacts to the adjoining properties or the locality. “Impacts”.

30

Okay. Next. Three, the panel otherwise supports the findings – “otherwise supports the findings” – contained in the assessment report and endorses the reasons for approval contained in that report – “endorses” – we have to give reasons for every decision we make. This is why we're doing this. All right. With that, we can move on to item number 2. 109A Wigram Street, Harris Park. I'll just get that item up here.

35

This is a review of a determination for the construction of an eight-storey mixed use development comprising two commercial tenancies and 41 boarding rooms and parking spaces. This matter was previously considered by a panel. The only thing that concerned the previous panel was the excess floor space ratio, which has now been rectified in the current proposal. And we note we have two speakers, but we don't wish to hear from you, unless you wish us to change our mind. Our mind is to approve it.

45

MR A. BYRNES: Far be it from me to seek to change your mind. So as the planning representative, I've got nothing further to add. I know my client, who I

believe is the other registered speaker, just wanted to speak to some details of conditions.

MR LLOYD: Yes.

5

MR BYRNES: Are you comfortable with us moving ahead with that discussion?

MR LLOYD: Yes, but you have to be recorded.

10

MR BYRNES: Sure.

MR LLOYD: For the record, your name and address, please.

MR A. EL-HAZOURI: Anthony El-Hazouri, 55 Philipp Street, Parramatta.

15

MR LLOYD: Right.

MR EL-HAZOURI: So we presented council with some issues on the draft conditions, some of which council has amended subsequently as of - - -

20

MR LLOYD: We have a set of amended conditions here.

MR EL-HAZOURI: Yes.

25

MR LLOYD: I understand you agree to them.

MR EL-HAZOURI: So there are just a couple that are still in issue, which we weren't finalised. Namely, to an issue you previously raised on the other application on the cap – on the tariffs charged per week, linking it back to the Office of State Revenue rates published each year. The condition, as it's drafted, in my understanding, isn't one that is open to being optional. If you want the land tax exemption, you get it. It's – the way the condition's drafted the moment, it's obligatory – that ultimately you must – you cannot charge more than the tariff listed by the Office of State Revenue every year.

35

MR LLOYD: Which condition are you speaking to?

MR EL-HAZOURI: Condition - - -

40

MS C. STEPHENS: Is that 109?

MR EL-HAZOURI: Let me just bring it up.

MS STEPHENS:

45

The rent charged shall not exceed the maximum tariff for boarding houses.

That one?

MR EL-HAZOURI: Correct.

5 MS STEPHENS: Yes. So the copy you've got, David, should be 109.

MR LLOYD: 109. Do you want to change that condition?

MR EL-HAZOURI: We'd seek for it to be deleted, in that, ultimately, it doesn't
10 emanate from anything within the Affordable Housing SEPP, nor the LEP. In
previous matter that we've been involved in, the courts held against these sort of
conditions on the basis that infill accommodation and supported accommodation,
supportable housing accommodation, does have, in the SEPP, restrictions on tariffs,
15 whether they're a 20 per cent reduction of market value or the like. The Affordable
Housing SEPP, in relation to boarding houses, imposes no such tariff and, typically,
it's a function of market forces that dictate the tariff and if we chose to obtain the
land tax exemption, then we choose to rent the accommodation under the applicable
tariffs per year and also satisfy a whole raft of other conditions of – of the Office of
20 State Revenue in order to obtain that. But the way I understood this condition – and
I'm happy to be shown if I'm wrong – is that it's not simply if you choose to apply
for these exemption; it seems to be simply that you cannot charge a tariff higher than
that published by the Office of State Revenue each year, which I think is without
foundation.

25 MR LLOYD: Well, that's what the condition says:

*The rent charged shall not exceed the maximum tariff for boarding houses or
lodging houses, as determined by the Office of State Revenue New South Wales*

30
–
etcetera.

MR EL-HAZOURI: So my - - -

35 MR LLOYD: It says that.

MR EL-HAZOURI: Sorry. The previous planner that got up here on the previous
application was saying something along the lines of – just on the previous – the same
question was asked about the previous application, item 5.1 - - -

40
MR LLOYD: Yes.

MR EL-HAZOURI: - - - and I thought that the explanation given was along the
lines of, "If you choose to obtain the exemption, that condition applies." My – I'm
45 just saying that if it is – if it is, in fact, that you cannot charge more than those
applicable tariffs, I would ask the foundation for that condition because, ultimately, it
doesn't emanate in the SEPP. There's nothing in the SEPP that says there's a

maximum tariff that can be charged for boarding houses, nor is it in any applicable LEP or any policy document I'm aware of, in relation to boarding houses.

5 MR LLOYD: Is the reporting officer here? Thank you. We've heard you.

UNIDENTIFIED SPEAKER: Condition 109 simply applies to when there is a land tax exemption.

10 MS SMITH: So we needed another sentence.

UNIDENTIFIED SPEAKER: So I think the condition itself reads to say:

If there is an exemption, the rules apply.

15 So I think the condition is very clear. If there's no exemption obviously, there will be no tariff which is applicable, according to the State Revenue, New South Wales.

20 MS SMITH: So there's a sentence missing?

MR LLOYD: How would you change the condition?

25 UNIDENTIFIED SPEAKER: We could add to the city to say, "Shall the proponent seek land tax exemption, the rent charged shall not exceed", whatever the rest of the condition reads as.

MR LLOYD: Do you agree with what has just been said?

30 UNIDENTIFIED SPEAKER: Yes. We can – we can amend the condition to reflect that.

MR LLOYD: Well, you talk to each other - - -

35 UNIDENTIFIED SPEAKER: Yes.

MR LLOYD: - - - and come back with an agreed wording of that condition - - -

UNIDENTIFIED SPEAKER: Yes.

40 MR LLOYD: - - - and do that now.

UNIDENTIFIED SPEAKER: I can.

45 MR LLOYD: All right.

UNIDENTIFIED SPEAKER: Yes.

MR LLOYD: Is there anything else, Mr Byrnes?

MR BYRNES: No, that's fine. Thank you.

5 MR LLOYD: Well, then, I think, subject to that I can announce the decision of the panel which, again, is unanimous and it's coming up on the screen. But again, as before the wording is not right. Paragraph A should read that:

10 *The Parramatta Local Planning Panel, exercising the functions of the Council as the consent authority –*

no, no, no, no, no, no, no. This is - - -

15 MS SMITH: Yes. She's just doing cut and paste.

UNIDENTIFIED SPEAKER: She's just copy and pasted to the next one down.

MR LLOYD: Okay.

20 UNIDENTIFIED SPEAKER: retype it all.

MR LLOYD: Paragraph A should read that:

25 *The Parramatta Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to sections 8.4 and 4.16.*

This is – this is a review so we have to mention section 8.4 and 4.16:

30 *8.14 and 4.16 of the Environmental Planning and Assessment Act approves the variation to clause 4.4 - - -*

MR LESTER: Environmental Planning and Assessment Act.

35 MR LLOYD: Yes. The Environmental Planning and Assessment Act 1979 approves the variation to clause 4.4 of Parramatta Local Environmental Plan – clause 4.4 of Parramatta Local Environmental Plan under the provisions of – wait a minute:

40 *..... Act 2011, as it is satisfied that the applicant's request has adequately addressed the matters required to be demonstrated under clause –*

by clause 4.6 of that plan; clause 4.6, not 5.6:

45 *...4.6 of that plan, and the proposed development would be in the public interest because it is consistent with the objectives on that particular standard and the objectives for development within the zone.*

MR LESTER: There were some objectives.

MR LLOYD: Objectives. Not objectors. Objectives for development within that – within the zone. Full stop. Within the zone. Full stop. Now, the rest of it can go. We’ve got to get this right.

5 MR LESTER: Where the red lines are, that should be satisfied about them.

MS SMITH: That’s just spelling.

MR LESTER: Not satisfied that - - -

10 MR LLOYD: As it is satisfied that - - -

MR LESTER: Yes. And then there’s another no other objectives to them.

15 MS SMITH: Yes.

MR LLOYD: Objectives?

MR LESTER: Yes. Well, that’s all right. And then there’s change in B. You’ve got the wrong section there. That the Parramatta Local Planning Panel, under section 8.4 of the Environmental Planning and Assessment Act. Not 8.2, 8.4. All right?

20 MS SMITH: Yes.

MR LLOYD: And then at the end of that paragraph put a subheading Reasons for Decision. The reasons for decision go above those three bottom paragraphs.

25 MS STEPHENS: Before the - - -

MR LLOYD: It goes - - -

30 MS STEPHENS: - - -

MR LLOYD: That’s the – they’re the reason for the decision. That okay? Am I right?

35 MR LESTER: Yes.

MR LLOYD: Yes. All right.

40 MS SMITH: And they’ve come back.

MR LESTER: Clause the clause

45 MR LLOYD: Yes. And then – have you agreed on the wording?

MR EL-HAZOURI: We have.

*...shall not exceed the maximum tariff for boarding houses or lodging houses,
as determined by*

5 MR LLOYD: You've got a - - -

MR LESTER: "Shall not exceed".

MR LLOYD: "Shall not exceed". Yes:

10 *Should the proponent elect ... shall not exceed.*

All right. Okay. Are you happy with that?

15 MR BYRNES: Perfect.

MR LLOYD: All right. Thank you. Item 5.3. This is the proposed modification to the approved aged care centre in Alice and Alfred Streets, Harris Park. We have notice that there are two speakers on this. Is Mr Michael Ellis here?

20 MR M. ELLIS: Yes.

MR LLOYD: You have to be recorded, Mr Ellis. For the record, your name and who you are and where you're from.

25 MR ELLIS: Yes, it's Michael Ellis. Director of heritage and collections at Sydney Living Museums, Historic Houses Trust.

MR LLOYD: All right. You have three minutes.

30 MR ELLIS: The reason I wanted to talk to you about this matter today is that it was determined by the Land and Environment Court and, in that determination, there was not a requirement for merits assessment and the court did not undertake merit assessment in that judgment. I've got a copy of the judgment, if you require it. So what I'm now circling back on is, now that it's before you for modification, I have a particular concern about the building height and I'm talking on this matter from –
35 we're the managers of Elizabeth Farm, which is a highly significant heritage item, listed on the State Heritage Register. Its registration number is number 1. It was that important when it was listed. And it was listed for its significant building structures and landscape.

40 And there's been a lot of planning assessment around that site over the years. Your LEP, with the building heights, actually takes that into consideration and the building heights in front of Elizabeth Farm and to the sides have always been kept lower than the surrounding locality because those views were always recognised to be protected
45 into the future. I also believe the site is of national significance. We will go through a process – the Historic Houses Trust – in nominating that for national listing and

Parramatta City Council don't have a lot of nationally significant sites within its LGA.

5 In particular, what I'm concerned about is that the LEP building height is a 9.2 metre permissible height. It was approved at 15.5 and now this modification's seeking it to go to 18.8. In the panel's assessment, I would like you to also take into consideration the building height map, which is not within the council report. However, I've got four copies here and I'd be happy to table them, if that's – if I'm able to do that.

10 MR LLOYD: I think we've got a copy here somewhere.

MR ELLIS: Okay.

MR LLOYD: Yes.

15 MR ELLIS: Well, why I think that's an important plan to take into consideration is you can actually see what the planners were trying to achieve by protecting that view, when you look at how that site has been identified as only a building height of 9.2. It's sort of – it's really creating a view cone angle from Elizabeth Farm and I'm
20 concerned that once there's incremental change within that zone we're going to lose control of the building heights in the future. So that was the main thing I wanted to talk to you about today.

MR LLOYD: Okay. Thank you.

25 MR ELLIS: Thank you.

MR LLOYD: Now, I think the architect is here. Is the architect here? Anyone for the applicant?

30 MR BYRNES: I got a message that the architect's caught in court.

MR LLOYD: What a terrible thing.

35 MR BYRNES: Yes.

MR LLOYD: All right. Are you happy to do – with our decision.

MS SMITH: Yes.

40 MR LLOYD: Are you happy with our decision? Are you happy with our decision? All right. The panel has considered the matter, taken a view of the site and does not accept the recommendation here to approve this development. We are concerned about the increased height, as has been mentioned. It is a substantial infringement of
45 the height control and we are not prepared to exercise the powers of the consent authority to vary that height control. Secondly, we had a concern about whether or not this is substantially the same development.

5 This is a modification application, which can only be approved if it's substantially the same development as that which was originally approved. Here we have the addition of a fourth storey and a part fifth storey, with an increase of over 1,000 square metres of gross floor area. The increase in height is an additional 3.3 metres, from 15.5 metres to 18.8 metres. The panel does not think that this is substantially the same development.

10 So the determination of the panel is as follows: (1), the panel is not – the panel refuses the application for modification under section 4.56 of the Environmental Planning and Assessment Act for the following reasons: (1), the panel is not satisfied that it has the power to grant consent to this application as it is of the opinion that the proposal is not substantially the same development as that which has been approved. It is not satisfied that it has power to grant consent to this application as it is of the opinion that the proposal is not substantially the same development as
15 that which has been approved. Secondly – we have to add a few words here. In the first sentence, “The panel – the Inner West Local Planning Panel exercising the functions of the council” - - -

20 MS SMITH: I'd like to be in the Inner West.

MR LLOYD: I was there last week, unfortunately. The Parramatta Local Planning Panel exercising the functions of the council as the consent authority pursuant to section - - -

25 MS SMITH: She had it, and she took it out.

MR LLOYD: It's section 4.56 this time. Refuses the application for modification. You've got “under section 5.56”, so again – twice. So you – remove that bit there “for the following reasons: (1)”. Paragraph 1 is that sentence, and then follow-up
30 sentence, “Another reason is that the Parramatta Local Planning Panel exercising the functions of the council as the consent authority pursuant to section 4.56 of the Environmental Planning and Assessment Act does not approve a variation to the building height control prescribed by clause” – four point whatever it is – what's the height control?
35

MS SMITH: Three? 4.3?

MR LLOYD:

40 *4.3 of the Parramatta Local Environmental Plan 2011, as it is not satisfied that the applicant's request has adequately addressed the matters required to be demonstrated by clause 4.6 of that plan, and the proposed development - - -*

45 MS T. MBIRIMI: What clause was that, sorry?

MR LLOYD:

- - - would not be in the public interest.

MS SMITH: 4.6.

5 MR LLOYD:

4.6 of that plan, and the proposed development would not be in the public interest because it is not consistent with the objectives of that particular standard and the objectives for development within the zone.

10

That's fair enough. That's good. Are you happy with that, panel?

MS SMITH: Yes.

15 MR LLOYD: In short, we think a variation of height control from the control of the 9.2 to what is now sought, 18.8, is too big. We can't – we just can't go on with it. So that's our determination. All right. The next item we have is the development at 85 Victoria Road, Parramatta. This is for alterations and additions to an approved development being shop top housing at that address, including increasing the FSR
20 and building height and an additional storey on one part of the building. Now, I've lost my sheet.

MS SMITH: What are you looking - - -

25 MR LLOYD: Here it is. We have notice of two people who wish to speak. I can say that you're both in favour of the proposal. The panel is happy with this if you are.

MS K. HODGKINSON: We are.

30

MR LLOYD: And you don't want us to change our mind.

MS HODGKINSON: No. Not today.

35 MR LLOYD: We'll – we agree with the recommendation.

MS HODGKINSON: Thank you.

40 MR LLOYD: So the determination of the panel here is again one where we have to make sure the wording is correct, and it is not. So the determination of the panel is that the Parramatta Local Planning Panel, exercising the functions of the council as the consent authority, pursuant to – in this case – section 4.16 of the Environmental Planning and Assessment Act 1979, approves the variation – it's a variation of the height control, isn't it? And the floor space? Are we varying - - -

45

MR LESTER: A very small increase in floor space.

MR LLOYD: Is it just the floor space?

MR P. ISRAEL: There is no change in the height control, no change in - - -

5 MR LLOYD: Is it just the height control or is it the floor space?

MS HODGKINSON: It's the floor space the height.

MR LESTER: The floor space is consistent.

10 MR LLOYD: Height. Yes. Approves the variation to the height control prescribed by clause four point - - -

MS SMITH: Are we the height?

15 MR LLOYD: Yes.

MS SMITH: 4.3.

20 MR LLOYD: 4.3 of the Parramatta Local Environmental Plan 2011 as it is satisfied that the applicant's request has adequately addressed the matters required to be demonstrated by clause 4.6 of that plan, and the proposed development would be in the public interest because it is consistent with the objectives of that particular standard – it is consistent with the objectives of that particular standard and the objectives for development within the zone. All right. And then – that's all instead of paragraph (a). It's really a re-wording of paragraph (a), the whole of that. So 1 becomes (a), as it is consistent with the objectives. It's (a).

25 UNIDENTIFIED SPEAKER: Yes.

30 MR LLOYD: (b) is as on the screen. Then we have to have Reasons for Decision. The reasons for decision are: the development is permissible in the B1 neighbourhood centre zone and generally satisfies the requirements of the applicable planning controls. All right.

35 UNIDENTIFIED SPEAKER: Satisfies the - - -

MR LLOYD: The development is permissible in the B1 neighbourhood centre zone and generally satisfies the requirements of the applicable planning controls. That's one. Two, the development will be compatible with the emerging and planned future character of the area.

40 MS SMITH: already got it in the next line.

45 MR LLOYD: In this case I've got the words "emerging and planned future character of the area". All right. Next. The panel otherwise supports the findings contained in the assessment report et cetera. Good. They're the reasons. Any other

reasons, panel? All happy? All right. Thank you very much. All right. Now, we come to 33 Thomas Street. This is the proposed childcare centre for – a proposed two-storey childcare centre for 56 children at that address. The recommendation is for refusal. In that case we should hear from you first, Mr Byrnes. All right.

5

MR BYRNES: Hello, my name is Adam Byrnes from Think Planners. Our address is in Mays Hill Gatehouse, Parramatta Park. We're seeking this afternoon for the panel to please defer the decision. There's been some, I guess, correspondence that we submitted to the council on 10 February that was not sighted at the time that this report was written on the 15th. Sorry. When I say February, January. 10 January. If you see in your business papers on page 396, we were required to submit amended plans by 10 January. We did that.

10

We understand the office is comfortable that that did occur, but it seems like at the time of writing, that submission had not been seen. Those amended plans address many of the issues we believe that are raised in the content that the reasons for refusal. We pulled back the rear play – the upper deck of the play space to improve solar access, reduce the overall impact. I'm also concerned about some of the discussion within the report that this is excessive in bulk and scale. We're well under the façade development standard.

15

20

We are 20 per cent below the standard. We are three metres below the applicable building height. We are proposing a childcare centre of, I think, a modest number of 56 children in an R4 zone. We think it's an appropriate use. We would just like for the application to be given the opportunity for the amended plans to be considered before they come back to you. Alternatively, we end up doing it via an 8.2. We would just prefer it to be done as we submitted the amended plans on 10 January.

25

30

MS SMITH: I'm happy to defer.

30

MR LLOYD: All right. We'll go along with that. The objectors haven't seen the amended plans either. There are objectors here.

35

UNIDENTIFIED SPEAKER: Yes.

35

MR LLOYD: You haven't seen the amended plans either.

40

UNIDENTIFIED SPEAKER: No, no.

MR LLOYD: So you should be given that opportunity as well. So this will be deferred to the next meeting, next month, and we will have a supplementary report.

45

MS STEPHENS: Sorry, David. 21-day advertising period. You might not be able to make the next meeting. Sorry.

MR LLOYD: I see. Okay, all right.

MS STEPHENS: It will be April at the earliest.

MR LLOYD: Well, the objectors should see the amended plans as well.

5 UNIDENTIFIED SPEAKER: Absolutely.

MS STEPHENS: If there's a 21-day advertising period, they will see it.

MR LLOYD: All right. So it may not be next month. It may be the month after.
10 All right. Well, at the request of the applicant, this matter is deferred. All right.
Sorry you had to wait around. That brings us to the next item which is the proposed
childcare centre at 21-23 Norfolk Road, Epping. We have three people who want to
address us on this one. Is Mr Shaves here? Would you come forward, please? Your
name and address, please?

15 MR R. SHEAVES: Rodney Sheaves. 24 Chester Street, Epping.

MR LLOYD: 34?

20 MR SHEAVES: 24. I adjoin this property – the property that you're considering.

MR LLOYD: Where is Chester Street?

MR SHEAVES: Chester street is – my property's on the corner of Chester and
25 Norfolk.

MR LLOYD: Yes?

MR SHEAVES: And I adjoin on the northern side, 21-23.
30

MR LLOYD: You're across the creek, are you? You're on the other side of the
creek?

MR SHEAVES: The creek is in my property.
35

MR LLOYD: Is it? Okay. All right.

MR SHEAVES: It's a council easement, it's not a creek.

40 MR LLOYD: I see. All right. I know where you are. Okay. You have three
minutes.

MR SHEAVES: Thank you. I've made a written submission, so I assume that you
45 have seen that and I don't think there's any point in me going through that, but I
would like to emphasise two points.

5 Firstly, this is a new development in the area bounded by Chester, Norfolk – sorry, I’ve forgotten what the other street is – Pembroke and Essex Streets. There is no other development like this. This is essentially a residential area. Most of the properties are single or double storey-houses. There are some 1950s and ’60s flats there. So this is a major development.

10 Our concern is that it will have a massive impact on traffic. It’s directly opposite Epping Public School. I would imagine that many of the parents who are dropping children at that school may well be other children at this childcare centre, if approved. In any case, in my submission, I gave you some photographs of traffic at peak hours of school opening and closing times. It’s already bumper-to-bumper. There’s no parking for parents to drop off or pick up children before or after school. They come into Chester Street, which is the nearest street at a right-angle, where my front entrance is. They block all our drives. It’s a major concern of ours at this time.

15 To put another type of facility, directly opposite Epping Public School would, in our opinion – and this seems to be an issue of agreement amongst most of the residents – cause a major impact in terms of traffic. As you’ll see in my photos, the traffic at 3 o’clock in the afternoon is bumper-to-bumper, double parked in Norfolk Road and also in Chester Street, to a certain extent.

25 We do not have an objection to a childcare centre, although there are nine in the Epping area already. But we don’t think that’s the right location, simply because of the traffic already – the traffic problems there already. The other thing I would like to mention is the creek that you mentioned, which in fact is a council easement which has been there for 90 years. It’s an open drain. It drains from Epping CBD proper, right through my property, it goes under some other properties, it goes under Norfolk Road and it goes further east.

30 This floods; it’s very shallow. Council has refused to take any responsibility for it. I’ve raised it over 25 years with both Hornsby and now Parramatta councils. They say they don’t have the funds to do anything to it. It’s a shallow easement. When we have solid rain there, after a couple of hours it floods into this property. So it will be a major drainage problem. I’m not sure that the owner, who is a developer, is aware of the sort of flooding issue, but the people who live there, the tenants – there are two houses there – are very much conscious of it.

40 I brought it to the attention of the council It doesn’t flow in my – well, it floods a little bit at my property between mine and that property on my southern side, but it doesn’t have any effect for me. But it has a major impact for them. I don’t think they’ve thought about that and I don’t think it’s appropriate for a childcare centre. But the major is the traffic issue.

45 MR LLOYD: Thank you. Wei Fun Lai?

MR W.F. LAI: Yes. Hello.

MR LLOYD: Your name and address?

MR LAI: My name is Wei Fun Lai. I live in 21 Rockleigh Way, Epping.

5 MR LLOYD: Where is that?

MR LAI: Just at the back of the childcare centre. Where the kids play – the playground.

10 MR LLOYD: Yes.

MR LAI: That's my fence.

MR LLOYD: You're at the back?

15

MR LAI: Yes. Adjoining the back. So, basically, I just am where the kids are.

MR LLOYD: All right.

20 MR LAI: I wrote my objection before and maybe you've seen it already. And the reason I object is like the gentleman said before: traffic. It's a huge impact for the parents in that school – at Epping Public School.

25 And also in my complex, the townhouse – the small house area, only 250 square metres. It's small – small land and a small area of backyard. And like, six or eight houses will be affected by noise and other issues. And for me, I live there and my backyard is only, like, nine metre by three metres wide. So my fence is that low and the noise affect it very much.

30 And my work I need to do – I do the night work. My job needs me to do night work and I have to work overnight and sleep in the day time. It's quite hard for me if the noise is there. My in-laws live with us as well and they have medical conditions as well, so they have to sleep at the day time because at night time they can't. They have insomnia or whatever; it's not easy to sleep.

35

And also the retaining wall – because our land is high, like, a metre higher than their land – the retaining wall is 20 years old and it's out of shape. And they'll build a storage room next to the fence and what we will end up, if you look at the plan, what we will end up – our fence is like that and their storage room is big and that much closer to the fence and tall. And what we will see, our backyard is small and all we will see is a big storage room wall and roof on us and we have lost a lot of light.

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And also they cut down a tree in their backyard which is a very healthy, good tree. We looked it and every morning small animals and birds, they are sitting there and happy. And they cut down a good tree and this is not good. It's a reserve area, isn't it, for the tree cutting? So we're concerned with the safety issues as that's a commercial area now and our back yard is very small and, you know, the safety and

45

this – if they build the storage there, people could just climb up or whatever. Yes, okay, that’s my concern. Thank you for your time.

MR LLOYD: Thank you. Ms McCartney.

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MS M. McCARTNEY: Hello, panel. I’m Margaret McCartney. I live in 5/12 Forest Grove, Epping. But I am here to represent the Epping Civic Trust today. So I am speaking on their behalf. We object to this development and we support the council’s findings and recommendations. This development is not in the public
10 interest. We would also like to show our support for those among the twenty submitters who have objected to this development and we agree with their reasons for objecting as listed in the council reports, so I won’t repeat it.

This development application represents over-development of this site. Epping is
15 fast losing its leafy character and older style homes and gardens, all of which have attracted residents to want to live in this suburb, particularly members of the Epping Civic Trust. This makes the preservation of the East Epping Heritage Conservation Area all the more crucial and important. To have 21 trees, including significant trees, removed and one building demolished, goes against the purpose the Heritage
20 Conservation Area, to keep this remnant of this heritage for our suburb. It will have a negative impact on the streetscape which we have all come to love and enjoy.

Norfolk Road is the main artery for North Epping residents to leave their suburb. This makes Norfolk Road a very busy traffic – full of traffic during peak hours and
25 causes traffic congestion in locality, as the cars queue to access Epping Road. Placing a 60-space childcare centre in this site will add further to the traffic congestion and we foresee it could present dangerous scenarios for young children crossing this busy road. The Trust is concerned about placing a childcare centre on a site which is prone to flooding. This is not an appropriate location for a childcare of
30 this size and scale. We therefore ask you to please refuse this development application. Thank you.

MR LLOYD: Thank you. You’re firm?

35 MS SMITH: I’m firm.

MR LLOYD: What do you want to do?

40 MS FIELDING: Can we adjourn?

MR LLOYD: Do you want to adjourn and talk about it? We’re going to have to take a short adjournment and discuss this one. We’ll only be about 10 minutes or so.

45 **RECORDING SUSPENDED**

[4.43 pm]

RECORDING RESUMED

[5.00 pm]

5 MR LLOYD: All right. We've come to a determination which is unanimous. The panel is not comfortable and is really not in a position to determine this application in the light of what has been said about the traffic impact. So the determination is that this matter be deferred to enable a full traffic impact assessment to be prepared and furnished to the panel and, secondly, for a report to be prepared to determine whether all significant treaties can be retained in addition to the two identified in the
10 assessment report. We don't have anything on numbers. We – there's been no traffic study.

MR SHEAVES: No.

15 MR LLOYD: That's what we need - - -

MR SHEAVES: Yes.

20 MR LLOYD: - - - before we can make a determination.

MR SHEAVES: Yes.

MR LLOYD: That's what we want. So that's the determination of the panel.
Thank you for your attendance.

25 MR SHEAVES: Thank you.

MR LAI: May I just raise one little issue. The public school is under
30 construction and building three – building storey – three-storey building for more kids so just more – more kids will come.

MR LLOYD: You mean it's getting bigger.

35 MR LAI: Yes.

MR LLOYD: All right. Thank you.

MR LAI: Thank you.

40 MR SHEAVES: Thank you.

MR LLOYD: Okay.

45 MS SMITH: Okay.

MR LLOYD: All right. We can now go on to the planning proposals, the first one of which is the Albion Hotel site. The panel looked at this site earlier in the day, Mr

Byrnes, and we really need more information. We need a proper briefing paper showing how this fits in with the Parramatta central business district strategic plan. You've got this proposal for tall buildings right on the edge of the CBD, and we're about to look at another plan proposal for Hassall Street.

5

Are you involved in that one, which is more towards the middle of the CBD, which has a lower floor space ratio than what you are proposing on this site? And we want to know how this all fits together. So our inclination here is to defer the matter, get a full background briefing on that kind of thing, but – I mean, we're happy to hear you now, but it may not be the same panel that determines - - -

10

MR BYRNES: Yes.

MR LLOYD: - - - this matter. I have to say, from a personal point of view, I'd be sorry to see the pub go because I used to drink there. But things - - -

15

MR BYRNES: We all have our vices.

MR LLOYD: - - - things must move on.

20

MR BYRNES: Are you happy for me to present or - - -

MR LLOYD: Look - - -

MR BYRNES: I'd like – I would like to make a couple of comments if that's all right.

25

MR LLOYD: It might not be us that determines this matter.

MR BYRNES: Sure.

30

MR LLOYD: It'll go to another meeting.

MR BYRNES: But I'm going to try and convince you not to defer it. That's what I'd like to try.

35

MR LLOYD: Well, you can - - -

MR BYRNES: Yes.

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MR LLOYD: You can try.

MR BYRNES: Yes, I can try.

MR LLOYD: You can try.

45

MR BYRNES: Should I come over here?

MR LLOYD: Yes.

MR BYRNES: Yes. Okay. Yes. Adam Byrnes, Think Planners, Mays Hill Gatehouse, Parramatta Park. The CBD Planning Strategy's been out in the public arena since, I think, April 2015. It's not a complex strategy in many ways. There's a lot of complex – there's a lot of devil in the detail in any planning strategy, I guess, but from a – that broad idea of what's happening with height and FSR in the core of the city, the proposal is essentially 10-to-one FSR - - -

10 MR LLOYD: Yes.

MR BYRNES: - - - with the ability to ratchet up those – those FSRs based on some unique opportunities: extra commercial floor space, extra – extra residential for certain-size sites and the like. You only get that opportunity to get 10 to one if you've got a certain area; otherwise it's silly to have pencil-like towers on small sites. And then six to one is at the north and the south extensions of the CBD: north up Church Street, south down Church Street, six to one. That has been in the public arena. That has now not only been in the public arena, not only been assessed by council, but has also been accepted in principle by the Department of Planning, that these heights and FSRs are appropriate.

They have issued a gateway on the – I think it's dated the 13th, came out on the 17th of December last year. That's – that more or less says, "We accept this overall strategy." There's a series of questions that fall out of the gateway that – that they ask for clarification on, but the planning proposal that is before you is one that is consistent with the council strategy that has been in the public arena for now three-plus years and is also consistent with the policy position set out by the Department of Planning.

They actually – they actually told council to adopt a certain sliding scale when it came to FSRs and – and in that sliding scale, there's a recognition that a – a site of the size that we have is appropriate for the FSR that we have. So I guess falling out of that, I – I don't know if that helps with – in terms of the background because I think it's – I think it's pretty clear, the policy direction at both State and Local Government in relation to FSR. I guess you're probably also wondering about some of the knock-on effects, things like overshadowing and the like. Is that – is that - - -

MR LLOYD: Impact on traffic.

MR BYRNES: And impacts on traffic. So those things, again, have – so let's just talk to overshadowing. So in your report before you, page 613, we've got some shadow diagrams that show that this particular proposal, in terms of the parklands to the east, do not impact upon those parklands until, obviously, the afternoon along the west side of that, and that's only from – on the worst day of the year, it's from kind of, I guess, midday onwards it starts to – it starts to impact.

5 The Department of Planning has said, “We’d like to understand a little bit more about the cumulative impact of shadows.” We understand that, but we are right at the early stage of the planning proposal process here. This is a pre-gateway request. There is a long way to go in which – in which time council will be looking at those cumulative impacts. So we think we’re consistent with the policy, consistent with the strategy, and we think that on that basis, there is no reason for you to delay that for further analysis.

10 MR LLOYD: Are you not convinced?

MR LESTER: No.

MR LLOYD: We’re not convinced.

15 MR BYRNES: Oh, I tried my best. Yes, I’d be keen to understand what the – the key concern is, I guess. We’re not in a dialogue here, but - - -

20 MR LESTER: Okay. From a planning point of view, we’re being asked to endorse a proposal for a very significant building on the edge of the city without the backgrounding that you’ve just given us in about two minutes. We’ve been advised by planners that there are some documents that are relevant, including some graphic material which go back to Architectus’ original data and some further studies - - -

25 MR BYRNES: Yes.

MR LESTER: - - - by Hector Abrahams, that have been taken into account.

MR LESTER: We think that, as the responsible party, we need to have a grounding, at the very least, in that - - -

30

MR BYRNES: Sure.

MR LESTER: - - - to be able to make an informed comment.

35 MR BYRNES: Okay. So - - -

MR LLOYD: You’ve done well, Mr Byrnes, but - - -

40 MR BYRNES: But - - -

MR LLOYD: - - - not quite - - -

MR BYRNES: Yes, no trouble at - - -

45 MR LLOYD: - - - not quite enough.

MR BYRNES: Okay. Thank you.

MR LLOYD: The decision of the panel is this matter be deferred to enable a background briefing paper to be prepared for the panel – a full background briefing paper to be prepared for the panel. I don't know when that could be done, but hopefully by the next meeting, and you'll have a different panel.

5

MR BYRNES: Yes, that's the issue.

MR LLOYD: Yes. All right. That's that one. Then, next matter: 6.2, the planning proposal at 6 Hassall Street. This is well advanced and comes to us to simply – it has received gateway determination. It's been exhibited. It comes back to us to simply report on the results of the public exhibition. There are no objections to the proposal, and I think the panel is happy with the recommendation.

10

MS SMITH: Yes.

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MR LLOYD: So the panel adopts the recommendation in the assessment report. Next is the planning proposal for 128 Marsden Street, Parramatta. Is anyone here in
- - -

20 MS S. ROBINSON: Yes.

MR LLOYD: - - - in that matter? Are you here for the - - -

MS ROBINSON: For the applicant.

25

MR LLOYD: For the applicant.

MS ROBINSON: Yes.

30 MR LLOYD: We're not completely happy with it. We are inclined to not give you the full floor space ratio that you have asked for. We are concerned that you also propose to fill in the colonnade.

MS ROBINSON: Yes, on the ground floor. Yes.

35

MR LLOYD: The increased floor space ratio that you seek arises principally because of the use of the car parking areas.

MS ROBINSON: That's right. There's - - -

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MR LLOYD: Yes.

MS ROBINSON: There's three levels of above-ground parking - - -

45 MR LLOYD: Which will be - - -

MS ROBINSON: - - - and two levels would be converted floor space.

- MR LLOYD: And that will account for much of the increase. We have no problem with that. We do have a problem with the filling of the colonnade. We would like that retained. So what we propose - - -
- 5 MS FIELDING: Well, three of four panel members.
- MR LLOYD: Sorry.
- MS FIELDING: Yes.
- 10 MR LLOYD: This is not unanimous.
- MS FIELDING: Yes, I thought we were going to - - -
- 15 MR W. REYNOLDS: Could I provide a comment - - -
- MS FIELDING: - - - get some information.
- MR REYNOLDS: - - - just in relation to the colonnade. So I got some information about awnings and the council's strategy for awnings. So the DCP identifies streets where awnings are required as part of developments, and broadly speaking, it's Church Street and some of the side streets off Church Street. But in this location, awnings are not identified - - -
- 20
- 25 MR LLOYD: Thank you.
- MR REYNOLDS: - - - as being required. Yes. I've actually got a screenshot of the figure from the DCP on my phone, so I can show you if you like.
- 30 MR LLOYD: No, that's all right. I understand. I mean, we're happy with the recommendation apart from that. What we are suggesting is that the proposed floor space ratio be reduced to allow for retention of the existing colonnade. That's our view at the moment unless you can persuade us to the contrary.
- 35 MS ROBINSON: Well, I must say - - -
- MR LLOYD: And if you want to speak to that, you'd better - - -
- MS ROBINSON: Yes, I'll go - - -
- 40 MR LLOYD: - - - move over there.
- MS ROBINSON: - - - to the hot seat. My name's Sandra Robinson. I'm a consultant town planner. I'm here with Will Reynolds, who's from Marathon Holdings, the landowner and the proponent. I guess we're surprised because we had early consultation with council and felt that pulling the glass line out to the edge of the footpath was actually a better outcome for the street because it meant that it – the
- 45

street became more active. I – I'm guessing that perhaps your concern is about weather protection, is it? Is - - -

MR LLOYD: Well, that's one of the concerns.

5

MS ROBINSON: Well, yes. And I think the colonnades are something that go in and out of favour, and we had taken the view that it was better to have an active street edge in – in this part of Parramatta and that that was actually the better urban design outcome. So I guess we are surprised because an active streetscape felt like the right thing to do. At the moment you've got a café that has some activation, but then you have some sort of quasi-office uses that provide no activation at all. They sit – sit behind the colonnade.

10

And pulling the glass line out meant that the prospects for getting more sort of active streetscape uses, more retail uses, would be improved and you might get – I think there's a hearing – sort of a hearing service in there now, which – very important service, but it doesn't need to be on one of – you know, a very prominent corner in Parramatta. So surprised, I guess, is my reaction. I hadn't expected that to be a concern for the panel. So we would, I guess, politely ask that you reconsider because we really felt that that was a good – really good part of the proposal to make it a more active street.

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MR LLOYD: Any questions, panel? Any questions?

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MS SMITH: No, I haven't got a question.

MR LESTER: I suppose my question would be, there are different ways of activating the street space. You mentioned a café, which normally has the right to spill out into that space, because it's all privatised space, theoretically. Would that not mean that some of the uses that you might look at to activate could also take advantage in the same way that a café might?

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MS ROBINSON: Well, I think that the colonnade space is useful for café seating.

35

MR LESTER: Yes.

MS ROBINSON: No doubt. But probably not other retail uses. And, you know, I don't know that you would fill the whole space up with cafes. I think that – and a café can have fully openable glass front that has sort of that indoor/outdoor feel without it actually being in a colonnade. So it just increases the range of uses, you know, pedestrian interface uses. I can't imagine that that whole space would be filled up with cafes and restaurants.

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MR LESTER: I wasn't suggesting that. I was suggesting - - -

45

MS ROBINSON: Yes.

MR LESTER: - - - there might be suitable ones and I think part of it's taken up by a substation as well, is it not, around the corner?

5 MS ROBINSON: That – on the – around the other side, yes. There is – yes. So that's not going to go anywhere. We're stuck with that. But it's only that one café use. And even the lobby – I think the lobby being recessed takes away from the street – you know, at the moment, the lobby, you've got to walk through the colonnades so it doesn't have a direct connection to the footpath either.

10 MR LLOYD: Any other questions? No? Thank you very much.

MS ROBINSON: Thank you.

15 MS SMITH: I'm staying with my opinion. I think with the amount of traffic – foot traffic that's growing in that area, the whole of Parramatta's becoming a living, working city. I think the movement of people – prams have got wider and bigger, mobility scooters. I'm not convinced that there's a big enough area there to indicate this great activation while those officers couldn't perhaps go up to the first and second floor and they for more active uses.

20

MR LLOYD: All right.

MS SMITH: So I'm sticking with the colonnade.

25 MS FIELDING: My position hasn't changed. I have no issue with filling in the colonnades. I think it'll present as a better urban design outcome, better activation, all the rest of it, and I note council officers observation that the DCP does not require an awning in such location. That's not to say, of course, that perhaps there couldn't be an awning probably put there in the future, depending on the depth of the – width of the, you know, pavement, etcetera.

30

MR LLOYD: What's your view?

35 MR LESTER: I think that my view is that it's an asset to pedestrians at the moment for cover, for solar protection. It's being taken out of play and there's no replacement for that unless you did consider an awning as an option.

MS ROBINSON: Well – I mean, we are dealing with the planning proposal so there's no - - -

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MR LESTER: No, no – sure.

MS ROBINSON: But absolutely no problem, subject to the council and the council own the footpath so - - -

45

MR LESTER: Sure.

MS ROBINSON: - - - it really is a streetscape - - -

MR LESTER: Exactly. Yes.

5 MS ROBINSON: Yes.

MR LESTER: So I still have the view that it still offers a measure of protection. It is on the south side which means it gets north sunlight so it's one of the ones that you would look to provide some protection for, rather than being on the northern side of
10 the street and, therefore, subject to a lot more shade. So I guess I would still have the view that it's something that is important.

MR LLOYD: Well, the decision of the panel is that the proposed floor space ratio be amended to allow retention of the existing colonnade. That's our decision.
15 Otherwise, we adopt the recommendation with that rider.

MS ROBINSON: Okay.

MR LLOYD: So the determination of the panel is as there. The floor – proposed
20 floor space ratio be amended to allow retention of the colonnade and that the panel otherwise adopts the recommendation. All right. Thank you very much. Thank you. We now move onto the final matter. The planning proposal for land at 55-59 Kirby Street, Rydalmere. The panel looked at this site earlier in the day and I think I'm correct in saying that the panel is of the view – unanimous view that the
25 recommendation be adopted. All right?

MS SMITH: Yes.

MR LLOYD: So that's the determination. All right. So there's nothing else to do,
30 okay. I wish they were all as easy as that. Does anyone want to speak against the recommendation? You do?

MS G. SEDGMEN: We all are registered to speak.

35 MS SMITH: All of them.

MR LLOYD: So subject to hearing from you, that's our view at the moment.

MS SEDGMEN: Yes. That's fine.
40

MR LLOYD: You want us to change our mind, do you?

MS SEDGMEN: We would like you to change your mind.

45 MR LLOYD: All right. Okay.

MS SEDGMEN: The next 10 or 12 minutes will - - -

MR LLOYD: You have to be recorded.

MS SEDGMEN: Thank you, chair and panel. My name is Georgia Sedgmen and I work for Mecone. I'm the consultant town planner on behalf of the applicant. We
5 also have our economist here and our urban designer and a representative of the landowners. As you said, you went to site today and I'm sure you will appreciate, having inspected the site, that it's absolutely an island site. You know, surrounded by residential land everywhere. I think you'll be aware that council recommended in 2016 that this site was an anomaly and it would be appropriate for a land use change
10 and I don't think any of us are disputing that. Council – we're all in agreement here. What really is remaining to be resolved is what the density will be and in addition to that, also the master plan and also the valuation methodology that's been adopted and our economist will speak more on that after me.

15 I think, from our position, the density that's been put forward with an FSR of 1.3:1 by council is not proving economically viable on the land. I think that there's particular constraints to the site that we need to consider and the fact there's a 20 metre cross fall from Upjohn Park in the north down to Subiaco Creek in the south is one of those, along with a nine metre retaining wall between the two tenancies on
20 site, as well as the heritage item in the north and also the riparian land to the south. So there's some additional costs with changing the land use on this site and I think that without an economically viable FSR, it won't result in the land use change that we're seeking.

25 MR LLOYD: I have to tell you that our view is – and it's supported by decisions of the Land and Environment Court – that questions of economic viability are not relevant if the proposal is otherwise not satisfactory on planning grounds. You have to satisfy us on planning grounds.

30 MS SEDGMEN: Yes.

MR LLOYD: Arguments about economic viability are irrelevant. Irrelevant; all right?

35 MS SEDGMEN: Okay. Well, let's touch on planning argument. So I'm sure you're aware, from the history of the report, that there's been ongoing reiterative design processes for the last two and a half years with council. This scheme started much higher and much more dense, with heights up to 12 metres and an FSR of 2:1. We've been working with council over this time and have brought it down to what's
40 presented now, which is the 1.5:1, and maximum heights of generally eight with one nine storey component, where we believe it was tested that it was able to demonstrate the height could be accommodated. So all of the solar access studies have been undertaken, SEPP 65 compliance has been tested. We listened to council's feedback that obviously 1.3:1 was the preferred density and that was based primarily, we
45 understand, on proximity to heavy rail.

5 So we undertook a study to investigate 1.3:1 and we think what we produced was the best scheme we could at 1.3:1 that allowed I think 47 per cent open space and we exceeded compliance with solar and cross vent. What we've done with the scheme that's been presented in front of you is take the 1.3:1 and add one storey across the height. And while I understand economic viability is not your position, in order to facilitate the land use change – for us, that is – so we master planned the 1.3:1 scheme that council preferred and then we looked at what it would take to increase that to 1.5:1 to make it viable and that was one storey across the site.

10 Again, our discussions with council have centred around proximity to heavy rail. So I just wanted to note that stage 2 Parramatta light rail is within one kilometre of the site, which will be on top of the express bus services that are already available within 400 metres at Victoria Road, and also walking distance to Ermington town centre to a lot of those local facilities. At 1.5:1 the scheme results in quite considerable public benefit, which is upgrades to Upjohn Park – we've consulted with council's open space and public space team – also upgrades to signalling on Victoria Road and Kirby Street and providing a crossing there which would provide access to the light rail on South Street, and we believe that we've been able to manage that interface and context because it has been thoroughly investigated over the last two and a half years in terms of visual impact and solar access and all of those types of requirements.

25 I guess, finally we would say that the desired future character is for residential development here and not for industrial and whilst not the planning consideration, our sticking point at the moment is the floor space ration because we can't make it financially viable right now at 1.3:1, and all we've provided to get to the 1.5:1 is just one additional storey across the site. So thank you and we have some other speakers and we're here to answer questions if you have any.

30 MR LLOYD: Thank you. Who's next?

MR R. HUXLEY: Me.

35 MR LLOYD: Come forward, please.

MR HUXLEY: My name is Richard Huxley and I'm the managing director and principal architect of Bureau of Urban Architecture and the design architect responsible for this project and I'm specifically focusing on master plan and urban design issues. Firstly, we're pleased that the council officers have given their support to proceeding with the PP but I would like to focus the panel on a few key points; hopefully, the turning points that may sort of, like, change your view on your leading comment of just running with the proposal as put in the council officers' report. I think the way that we see it, after two and a half years of working with council staff, we've come up with the right solution and yet there's a kind of a late in the piece kind of new plan that we disagree with.

The main features of our scheme, being U and L-shaped building typologies, was specifically to create a middle landscape space that would be a dominant landscape area in the site. The U-shape configurations means that apartments that would be facing Upjohn Park would be – that would be a benefit but then on the inside of that U, looking back, then people would actually have the benefit of a large open space internally in the site. Subiaco Creek facing residents would benefit from the creek but of course they would benefit from a large open space in the middle. And I think the other thing that's very important – and we talked about this for a long time and Jan McCready was very specific on this point, that the – to create not an urban form, a typology that related to its sort of suburban location and the fact that you're urbanising it.

So the notion of having U-shape and L-shaped forms means that streets that you would drive and walk down would have large areas of landscape and there would be built form but it wouldn't be dominated by this continuous built form. And I think it's a mistake just to say let's do perimeter block. It's sort of, like, the easy thing. It's sort of a bit cookie cutter and I think, in this context, I would sort of ask the panel to consider potential typology change. If you put other things aside, I think it's important; create a big space in the middle of the site and to create streets that aren't just dominated by walling. So – you know, we're not in Alexandria so I think that that's really important. And just bearing in mind this plan we have not seen. After two and a half years they've put something forward we have not seen.

MR LLOYD: This council

MR HUXLEY: Yes. Yes.

MR LLOYD: Yes.

MR HUXLEY: Yes. So I would you urge you caution on this. And it's untested and I think when you test it I think it will come undone. I'd like to talk about that but just quickly, you know, we've got a maximum of 31 but we've got varying heights from two levels, four, five, six, eight, nine – we're saying it's important to have townscape. We're saying that it's important to have these big – this big open space in the middle so that you've got Upjohn at the end, Subiaco at the south and you've got this big middle space. I think we've done all the right things in terms of the riparian setbacks and all of that and I won't go into that in detail; tailoring what I'm saying relative to your opening remarks, I think.

What we did is we felt that the right masterplan was the plan that we've ultimately settled with and, as Georgia said, there's a point 2 to 1 difference, which is the difference between 1.5 and 1.3. I don't think that the scheme works really well at 1.3 and then doesn't work at 1.5. And just putting aside viability for a second, I think the right masterplan is the right masterplan. I think that you might sort of form the view that, look, if council is saying 20 metres is acceptable, they're saying buildings of a substantial height are acceptable. The question is, is a maximum – not everywhere, right, and we wouldn't want to develop a DCP. It would be

inappropriate for all of the two and a half years of discussion that we've had that we would say we don't want to have a uniform height.

5 We want to have varying heights and be compelled to sort of come up with sort of
superb buildings that respond to the topography, and there is a big topography
change. There's 20 metres on site. Even if you think about a gradient past a building
– you're going to change two levels or three levels just going past a building on a site
that's dealing with 20 metres of cross-fall. So if it peaked at 31 and came down to
10 sort of 20, or if it sort of was 10 and peaked at sort of 25 or something, or, you know,
15 15, that you would – this is going to be the nature of a scheme that will ultimately
come out in the wash when a final - - -

MR LLOYD: You could do that even with 1.3 to 1. You could have - - -

15 MR HUXLEY: No, no. It is, but I don't think that the notion of saying 20 metres
and 1.3 is necessarily the golden solution. I think the most important thing is making
sure that there's the right balance between built form and landscape on the street and
that it is perimeter block, which is really the key thing. And then the second thing is
20 that, I think when you consider 20 metres of cross-fall, the right scheme with being
able to having substantial varied heights I think will lead everyone's mind, in a
design sense, not to just to have, you know, six-storey blocks and it will be poorer for
it. I don't think it will be innovative and that's my great concern in the assessment of
this very late in the day – we only saw it a week ago after two and a half years –
drawing and I think that's particularly unfair.

25 No disrespect to the council officers, but it's – you know, it has been a collaborative
two and a half years and I think this is just not right. And I think that the one thing
that makes it very difficult to accept this plan is one of the constraints of the site, like
where the sun comes up and goes down, like 20 metres of cross-fall, like Subiaco
30 Creek, like getting the dimensions of built form away from Silverwater Road, are
important. I think that the fact that there's two operating businesses – effectively
leases on the land; they have different timelines; they could be sort of a decade
apart – and, in stageability, we said it's fundamental that the masterplan
contemplates the fact that the northern built form, which currently sort of is close to a
35 boundary line and an escarpment, which is a man-made escarpment, of about 10 or
so metres, that had to be figured out in the staging.

So you can't have a notion, which is council's plan, that stages it and actually doesn't
40 have the road running relative to that so that you can have a southern works zone and
a northern works zone. So I just think that doesn't work; it won't happen. And I
suppose – we designed the northern entry, which council now have said – I mean, I
got on the phone to Kevin and said, "Would this be acceptable?" He said to me,
"Yes. It would" He said, "As long as the majority of that road" – the northern road
45 that comes in at the top of the site – "the majority was on your land." I know the
road needs to change and we've been, you know, like, talking about this for months,
and months and months, and I said, "Well, look, as long as the majority – it's 60 per
cent – if you align it the way I think it should be aligned relative to where you

wanted to finish and the access off Kirby Street on the corner”, and he said, “That would be fine.” Now council officers say that’s not acceptable.

5 After two and a half years, I think a proponent or a designer deserves to have sort of
like some common sense to prevail and I don’t think common sense is prevailing
there. It’s a small point, but I just think you need to get the road right and there’s lots
of benefits. It’s not – you know, it’s not money, but it’s like there’s things that the
development can do to add value to the park, particularly as it interfaces with the
10 heritage and the way the buildings and the new road will be. Getting that right – it’s
about getting it right, not saying where the lines should be. Because there’s so much
so space to work with, it’s just getting the road right; making sure that you don’t
affect too many trees and it’s the right traffic outcome.

15 So we would sort of say that our scheme in that regard really solves that issue and I
suppose we – I know that you’ve started with a hard headline, but I really believe
that the things that council are saying about, you know, what we should change are
sort of not right. They have taken an L-shaped building that borders Silverwater
Road – and I call it, you know, the L or the seven, and they’ve said flip it. Now, if
20 you look at the plan, our plan suggests that, consistent with our U and L-shape
topology, that the green space should be in favour of the residence, not of cars
travelling at sort of 80 kilometres an hour. Now, there will, of course, be – have to
be a buffer of landscape, but to flip that to create an amenity on the Silverwater Road
side, it’s still – I mean, a building, whether it’s 20 metres one way or the other of a
boundary, still have acoustic treatment, so it’s like where do you put that greenspace.

25 Council have said, you know, “Let’s just change it so it’s in favour of Silverwater
Road.” I’d rather it be in favour of the streetscape within the community within the
public domain and the road network – they’re all going to be public roads – rather
than saying, “Let’s try and create it on the other side.” I just don’t see the sense in
30 that. And the other thing that we were instructed very clearly from council is don’t
create dead ends. Every road must be a loop. It makes sense. It’s safe; there’s a lot
of trees; there’s Subiaco Creek. So from a fire, from an emergency vehicle point of
view, just don’t create dead ends. And, believe you me, in the two and a half years,
we’ve gone through options after options. So it was very firm, but they have come
35 and they have said, “Okay. It’s okay. Our plan now”, that we haven’t seen, “is – it’s
okay to do a dead end.”

Now, it was never okay to do a dead end and I think that’s wrong, so I think the
panel should contemplate that. And when I – we do a lot of this work; we do a lot of
40 architecture – I think the thing is when you look at the perimeter block and you look
at the real public open space that you’re creating and the value to the streets, that
plan, when you translate that into 1.3 to 1 and you have 20 metres, it will just be this
built out thing. It will be horrible and I would urge you not to go down that route. I
would urge you to think that two and a half years has earned us the right to say, “I
45 think we’ve got it right with the masterplan”, and make the decision about FSR. I
know, at the end of the day, perhaps that’s politics more than real sort of, you know,
architecture and planning thinking, because I think that, for the sake of one level, we

know that 1.5 and 1.3 with its own masterplan, that's the decision. So you sort of think it's about a storey. So I feel that we're kind of close if only we could focus on it being a discussion about our masterplan, not something that has come in at the end, and I know I've probably gone over my time, but there you go.

5

MR LLOYD: Thank you. Sorry. Any questions, panel? Any questions, Anne?

MS SMITH: No.

10 MR LLOYD: No?

MR LESTER: Is it arguable that part of the proposal, as I read it, is talking about – the planning proposal, in essence, is about FSR and change of land use? And, essentially, the recommendation is that there's a change of land use from industrial to
15 city residential R4.

MR HUXLEY: Yes. Yes. Yes.

MR LESTER: There's a proposal as part of that to modify the FSR.

20

MR HUXLEY: Yes.

MR LESTER: And the maximum building height - - -

25 MR HUXLEY: Yes.

MR LESTER: The three components.

MR HUXLEY: Yes. Yes. And you would think like that we're sort of close. You
30 know, like - - -

MR LESTER: But what I'm thinking about is that, if that land use change went through, it doesn't necessarily mandate an end plan - - -

35 MR HUXLEY: Yes.

MR LESTER: - - - which is what you've addressed obviously and your passion for it comes through.

40 MR HUXLEY: Yes.

MR LESTER: But what we're, I think, being asked to look at is to support the change in use - - -

45 MR HUXLEY: Yes.

MR LESTER: - - - a change in the façade and a change in building height - - -

MR HUXLEY: Yes.

MR LESTER: - - - at the moment and then you can get into the – you know, the
5 very detailed nitty-gritty. We have not been backgrounded with a lot of the material
that you're talking about - - -

MR HUXLEY: Yes.

MR LESTER: - - - so we almost have to move back to a basic position of the land
10 use change that's being sought, which, if you boil it down, comes back to those three
things, I think - - -

MR HUXLEY: Yes. And - - -

MR LESTER: - - - which leaves open the argument that you can still develop within
15 that frame.

MR HUXLEY: Yes. I suppose the issue is, we would say, with 20 metres of cross-
20 fall to mandate a 20-metre height of a maximum of a building – I mean, we've
thought about it in a townscape sense and we've said if we could peak at that point,
we can get things down to two, and four, and three - - -

MR LESTER: Sure.

MR HUXLEY: - - - and we can have a real – that's the real message. So I think it's
25 a mistake to say the 20 metres is correct, and I think it's a mistake to say, look, we've
agreed that 1.5 sort of like – it works, but I'm not too sure whether it's beneficial –
putting aside money – it's beneficial to say, "Well, look, it just has to be 1.3" if we're
saying 1.5. So I think we've proven our case for the big picture things. I suppose
30 I'm just asking the panel to say that these things should be able to be, in the fullness
of time, ventilated, reviewed and worked through so that we do get the very best
outcome. You know, we're not – we – you know, we're not – don't have ambit
claims of, you know, three to one, two and a half to – you know, this is – you know,
we're sort of close, but we feel that a new plan and setting a 20-metre 1.3 is just –
35 that's all we would – you know, err on caution and request the panel to deliberate
considering that.

MR LLOYD: You sought a 40-metre building height.

MR HUXLEY: Beg your pardon?

MR LLOYD: You sought a 40-metre building height. That was your application; a
40 40-metre building height.

MR HUXLEY: Yes. Well, in the beginning, we went through with Kim Kristani a
45 whole array of solutions and then, for about 18 months, we ran a process with Robert
and Kim. Then there was a change and we lodged the higher heights with Kim, and

then, all of a sudden, Jan McCready came in and everything changed. So I would sort of say that that sort of reflected the moment of that sort of engagement of option studies relative to different people and the fact that taller buildings could have actually given way more park space and – I mean, that was how that emerged.

5

So if I can just speak frankly, that that was, you know, the result of the individuals in the room, and I suppose it is always the case that taller buildings and the same – or similar densities you could produce, you know, fantastic outcomes – and we weren't having people on the other side, Kim in particular, saying, "Look, I don't think that this is out of the question", you know. I mean, you know, almost paraphrasing exactly, you know, any – you know, two to one, you know, 1.5 to 1, she could see it happening, you know. So that was that time when we lodged - - -

10

MR LLOYD: So what - - -

15

MR HUXLEY: - - - but then, you know, we had change of staff and then, you know, it has been evolved from that point. So I think that that's the context of looking at can we have height; is there a better solution where it's not just sort of like one mindset?

20

MR LLOYD: So you're asking us for a – from us a 1.5 to 1 floor space ratio.

MR HUXLEY: Yes. As a maximum.

25

MR LLOYD: And what height?

MR HUXLEY: Well – and as a maximum of 31, but we – this is the thing. We – if we can't get 1.5, I mean, you know, it's just – it's not going to happen. And given 20 metres of cross-fall, you know, to have the ability to be able to peak at that point, to be able to drop down and have this varied thing, that's my biggest concern. If you actually boiled it down, delivering – someone driven to deliver 1.3 and the perimeter block model, I think it will be horrible.

30

MR LLOYD: So what's the maximum height you're asking us?

35

MR HUXLEY: We're asking for 31 as a maximum.

MR LLOYD: 31?

40

MR HUXLEY: 31 metres as a maximum. And just to put it into context, you know, 25 is a fairly normal sort of like height for a building that sort of like, you know, lifted and you've got cross-fall that, running past at the highest point, gives you our highest building, but, of course, we're not trying to do that everywhere. As we say, our masterplan says it should step and be vigorous.

45

MR LLOYD: So how many storeys is 31 metres?

MR HUXLEY: Well, 31 could – it could be - - -

MR LESTER: Max 10.

5 MR HUXLEY: - - - nine storeys.

MR LESTER: Nine to 10.

10 MR HUXLEY: Yes. It could be – well, it won't be 10. It can't – we – it's impossible to get 10 - - -

MR LESTER: I know.

15 MR HUXLEY: - - - but it could be nine.

MR LESTER: Nine.

MR HUXLEY: But I think there's only one point that's achievable at nine, and we actually say most of it should be five and six, and then – and that's how it should be. So I suppose what we were looking for is a very kind of rigorous DCP process that would sort of be pursuant to your decision to really get – it's a massive site. It's fantastic. It has got all of this amenity. It's just something that actually panel and council officers and proponent alike actually feel like we've innovated. We haven't just said, "Look, we will just do the easy thing and dumb it down", and because, you know, there's not consensus for sort of, you know. 1.3 because it's too far from a rail or 20 metres feels a bit comfortable.

It just doesn't sort of feel right. You go onto the site and you look at the enormous – sort of the enormous tree canopies and the topography change, and you really wonder, you know, if I was a panel member – and I suppose have been a panel member in the past – but you really wonder sort of what dimensions of buildings feel right, you know, in terms of sort of captivating a sort of a relationship to place and what sort of dimension of open space feels right to sort of make sure that you're not losing the opportunities that it is actually big and you want to respond to big and to topography and the height of those trees. And yet you've got sort of residential buildings that have sort of, you know – there's this sort of, like, fine grain, you know, around, sort of, you know, all, you know, Paterson Kirby, and you sort of think it has got to be a mixture, you know. That's the sort of – the proper response to place. So that's, I suppose, where we've come from.

40 MS FIELDING: Prior to the council's recent plan was there any discussion with council about LEP maps for FSR and building height that might vary across some

- - -

45 MR HUXLEY: Yes. That's it. We were quite interested in pursuing a very specific way mapping out because our next step is like a very specific DCP that would lock in a DA that's the - - -

MS FIELDING: Only in the DCP, but not under the LEP.

MR HUXLEY: Well, you could. I mean, we're doing another one in Burwood at the moment. We're prescriptively – and the panel adopted this. We actually lodged
5 an LEP thing. We made the heights specific to almost a DA and lodged the finished scheme as if it was a DA, but, obviously, as a PP with a height map that reflected that exact scheme, so there was certainty. And when you've got really unique sites and compelling reasons to create, sort of, like, good design and innovation because of the constraints, not just because you want to do it anyway, that was a way that we
10 successfully achieved that in another council for a building that was on a park, and the community really wanted to see something super special. So that could be done, and I think that our client would be more than happy to be that prescriptive, but, you know, as I said, it's about being – if there's a high point, there's a low point, and there's a series of middle points as well, and I think that's what the site deserves.

15 MR LLOYD: Any more questions?

MS FIELDING: No. Just more in relation to the heights in relation to the historic – because it would seem to have a higher building height.

20 MR HUXLEY: Yes.

MS FIELDING: Close to the existing residential and the historic house.

25 MR HUXLEY: What we've got along that eastern boundary on the back side of the Ormond Street backyard is we've got a building height of five that steps to seven, six and seven, and then we've got the corner of the loop at the northern end, and then we've got the heritage precinct for which we've created a two-storey built form that would be connected to the heritage. Now, we've said – and we've tested things. I
30 mean, we – the heritage architect came up with a function centre. Council didn't like it. I didn't mind it, but, I mean, you know, a lot of brides and grooms taking pictures sort of near some public space didn't seem to be bad, but they're worried about traffic. I get it. We suggested a sports centre.

35 So we sort of thought the heritage precinct – that falling downhill with the heritage gardens and a two-storey building that would be connected underground and then cross the road to sort of a – four – five-storey building that pulled back and then was a bit taller. There would be a solution there that would sort of make sense to me. And then, from another point of view, when you looked at the buildings from the
40 park or if you were playing cricket on the pitch looking back to the buildings, you know, having buildings of that sort of five storey sort of thing sort of running along that sort of boundary feels sort of, you know, very right. I mean, we've sort of mapped that and modelled it and physically modelled it, as well as just CGI, and it feels like it's right.

45 And then the difference between those built forms and the back porches of the Ormond Street properties – like, there's quite a bit of – there's a lot of distance. So –

and we've preserved a setback by saying there's landscaping, there's a road, there's a setback to a built form, and then that plus the Ormond Street backyards – it's a healthy distance to have anything. But in the fullness of time resolving something in detail in a DCP and then locking it into an LEP with specific heights – I mean, I
5 don't see why we couldn't, you know, achieve that, and, as I said, I don't believe that 1.5, you know, should be put off the table, and we just really want to vary the heights because I think the outcome – I think it will be sort of this massively missed opportunity from an architecture and urban design point of view.

10 MR LLOYD: No more questions? Thank you. Mr Wiseman, do you want to speak?

MR M. WISEMAN: Yes.

15 MR LLOYD: Yes.

MR WISEMAN: Just a quick question, if I may. We came prepared to – council's report engaged on an economic viability question. I accept what you've said

20 MR LLOYD: Economic viability is not a planning consideration.

MR WISEMAN: I understand.

25 MR LLOYD: End of story.

MR WISEMAN: Council engaged in that, and we've come prepared to talk to it. If it's not a - - -

30 MR LLOYD: It's not a planning consideration.

MR WISEMAN: Then we can set that aside. We won't talk to that.

MR LLOYD: Yes.

35 MR WISEMAN: Okay. Without, I guess, changing the tack slightly on what I wanted to come and talk to the panel about – Michael Wiseman is my name. I represent the landowners. We started this journey some time ago, looking at what can be achieved through a planning outcome change of use and then exploring what is the capacity of the site, and we've looked at many options. Richard has talked
40 about the time and the journey, particularly the road layout, how we get roads to work on a site that has steep topography. We engaged on that, and we landed the road network that we submitted with the PP. We then explored the envelope that could be developed on the site within that road network, so the larger development lots that were created.

45 We looked at an envelope from a shadowing perspective, impact on adjoining properties, biodiversity, with the benefit of a full consultant team over the course of

time, and iterating the design. We were accused at the beginning of this process of designing to an FSR. We were told, “You have picked an FSR, and you have designed to that number, and that’s what you’re doing.” So that was not the case, but we went to extensive lengths to demonstrate that we have designed to what the site can carry, and that’s carrying providing quality public spaces and quality accommodation. We’ve tested SEPP 65 to know that works with the scheme that has come in.

We’ve tested the solar of public spaces that we’ve created within the site, and we’ve tested the impacts on what’s happening to the surrounding area. The concern is that we’ve seen a new scheme that has been put forward by council. That is untested. That scheme has reduced the spacing between buildings when you’ve got a site that has south-facing steep slope. Reducing the gap between the buildings increases a shadowing issue. We’re concerned that when that’s tested that scheme will not pass the SEPP 65 and the sunlight for public space that we have strived to achieve. We ask the panel to consider that.

MR LLOYD: So you’re asking us that a state-specific development controlled plan based on your scheme be prepared. That’s what you want us to do.

MR WISEMAN: And an FSR of 1.5. That’s correct.

MR LLOYD: Yes. But based upon your scheme.

MR WISEMAN: Correct.

MR LLOYD: Yes. Thank you.

MR WISEMAN: Yes.

MR LLOYD: Any more questions? No? All right. Thank you.

MR WISEMAN: Thank you.

MR LLOYD: I think, Ms Cheong, your comments are probably of no relevance.

MS E. CHEONG: Fair enough, I’m very happy to if you don’t care to listen to them.

MR LLOYD: But you’re proposing to address us in relation to the evaluation and feasibility?

MS CHEONG: with the approach.

MR LLOYD: No, we’re looking at this strictly from a planning point of view. I think we need to adjourn. We’ll take a brief adjournment.

RECORDING SUSPENDED

[5.55 pm]

RECORDING RESUMED

[6.19 pm]

5

MR LLOYD: We've carefully considered this and we've heard from the applicant. We haven't heard from the council other than what we read in the council report. There are some things that concern us.

10

We appreciate what Mr Huxley has said about the design and layout and we accept the force of what you've said about having internal open space and that kind of thing. But that is, really, for the DCP stage, not for us. We're only considering the rezoning, the floor space ratio and the height A detailed DCP would have to be prepared in due course and that would then look at the layout of the buildings and where you're putting them.

15

We are also concerned about the possibility of tall buildings backing on to single-storey residences, which you've shown here on your proposal and we're uncomfortable with that. But we think that it's basically a good opportunity to do something decent here. So bearing in mind that it adjoins low-density residential, we are nevertheless prepared to agree to the rezoning to R4 high-density residential. So we're happy with that.

20

We feel that six storeys should be the maximum here. So that limits the maximum height to 20 metres. However, at the development application stage you could come up with a proposal that individual buildings could be higher than six storeys and other individual buildings could be lower than six storeys, in order to give the variation that you seek.

25

30

So we're going to leave it at 20 metres – six storeys – for the time being, but as you heard earlier, if you were here earlier in the day, we were approving clause 4.6 variations to building heights and it happens all the time, where you have a higher building, but a smaller footprint and more open space. That's at the detailed design stage. But for the purpose of the rezoning, we're going to stick with the council's recommendation of both the 20 metre height and the 1.3 to 1 floor space ratio.

35

So the recommendation in paragraph A is adopted. We also agree to those additional uses. We note at paragraph B that a site-specific development control plan be prepared. That's where these various schemes come into the picture. That's where you'll work on the layout: what you're putting where, what goes where, that sort of thing. So we adopt paragraph B. And the remaining paragraphs are all machinery provisions, so that is the recommendation, unanimous, in accordance with the assessment report. Does anyone else want to say anything? No? All right. So that's the recommendation, unanimously. And with that I can formally close the meeting.

45

RECORDING CONCLUDED

[6.23 pm]