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CITY OF PARRAMATTA COUNCIL

RECORD OF COUNCIL MEETINGS

PANEL MEMBERS:

**STEPHEN O'CONNOR
ROBERT HUSSEY
LINDSAY FLETCHER
WARRICK McLEAN**

LOCATION:

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

DATE:

3.46 PM, TUESDAY, 19 MARCH 2019

MR O'CONNOR: Well, good afternoon everybody, and thank you for your
patience. I apologise, we are late starting. We've been out on a site inspection, and
the bus we were on had a flat tyre. We had to get a replacement bus, hence we're
running behind schedule. So thank you for your perseverance. My name's Steve
5 O'Connor. I'm the chair of this panel meeting. With me at this meeting, I have two
experts: Lindsay Fletcher on my left and Robert Hussey on my right, and our
community representative is Warrick McLean on my far-left also.

10 The City of Parramatta Council acknowledges the Burramattagal clan of the Durag,
the traditional owners of Parramatta and pays its respect to the elders both past,
present and emerging. This meeting is being recorded. The recording will be
archived and made available on council's website. All care is taken to maintain your
privacy, however, if you are in attendance in the public gallery, you should be aware
15 that your presence may be recorded. There are no apologies that I'm aware of, and
in terms of declarations of interest, does any panel member - - -

MR HUSSEY: No.

MR O'CONNOR: No.
20

MR HUSSEY: No.

MR FLETCHER: Mr Chairman, I don't declare an interest, but I simply place on
record that I note the statement of environmental effects on item 5.4 for Antoine
25 Street, Rydalmere was prepared by a firm that I'd previously had involvement with.
I've had no involvement with that firm for a number of years. Had no discussions on
the item with anybody, so I don't believe there's any conflict of interest, but just
wanted to place that on record.

30 MR O'CONNOR: Okay. We will note that in the minutes, but not consider it a
conflict of interest. In terms of reports, we have five development applications and a
pre-gateway planning proposal to consider; so six items in total this afternoon.
There are a number of speakers in relation to items 1, which is 83 Wood Street, item
2, which is 34 Boronia Avenue. There's just one speaker in relation to the
35 development application at Morton Street. There are, again, four speakers for 70
Antoine Street, and there are no speakers in relation to the Brynes Road development
application. They're the five applications. We'll deal with the planning proposal
after we've dealt with those applications.

40 So we have got quite a number of speakers before us this evening. We would
appreciate if everyone sticks to a maximum of three minutes in terms of time you're
allowed to make your presentation, and we will be keeping time. And we'd also
appreciate it if, where a number of people are speaking about the same item and they
have the same concerns, there's not a repetition. We take into account each issue
45 that's raised. Raising it three or four times doesn't mean that it's going to be given
more weight. So just in terms of expediency with the time that we have allowed,

we'd appreciate if you can try and avoid repetition. Having said that, we might start with the first development application for 83 Woodbury Street, North Rocks. The first speaker I have down is a Dr John Howell. Thank you.

5 DR HOWELL: Where do we speak from? Just here?

MR O'CONNOR: Yes. Thank you, John.

DR HOWELL:

10

MR O'CONNOR:

DR HOWELL: And that's for the panel members.

15 MR O'CONNOR: Ta.

DR HOWELL: And I presume you're recording as well? We noticed your bus outside our home, and apologise that it broke down right outside the house. We would have offered you a list if we'd known. My wife did predict that was your bus.
20 Mr Chairman, members of the panel, and any ward councillors and council staff, ladies and gentlemen, there are seven of us here representing opposition to this DA, and four of us, as immediately neighbours, have asked to speak to the panel under a number of different items. Many of the North Rocks residents were invited but are unable to attend today, and they've remitted proxies that you have in your
25 possession.

But we are here today because a considerable number of residents in our community did take exception to this DA, and its subsequent minimalist amendments. In my three minute address, I wish to make two very important points. Firstly, following
30 the exhaust of assessment of the merits of this DA, I wish to briefly explain why I do affirm the City of Parramatta Council's recommendation that it is deemed not to be in the public interest. The combined report, written by residents who attended the conciliation conference meeting on 16 November highlighted 3 foundational principles. They should be the basis of every single DCP, providing clear guidelines
35 to approving bodies when assessing a DAs impact on neighbours and surrounding community.

The principles are there, already on file, but in summary they are the right to streetscape consistency, which denies a developer building an architectural style
40 outside the character of the street; the right to light, which prevents adjacent buildings denying natural light, and there's a legal precedent for owners who've lived for 20 years maintaining that right to light; and, finally, the right to privacy. It was emphasised at the CCM that the DA dramatically failed to pass all three principles. The recommendations made with examples of new builds in the community were not
45 applies to the changes in the amended plans, and one of our neighbours, Alfred Ghuzal here, kindly used his technological skills to illustrate the effect that the DA will have on, not only the streetscape, but also we, as immediate neighbours, on both

sides of the property. That idiom, “a picture says a thousand words” says it all. I could write a book on the comments the people have made about that picture.

5 Secondly, the second and last point that I want to make is that this DA is a case that should motivate very careful scrutiny and revision of the Broken Hill shire council DCP that governs our area. May I be so bold as to suggest that staff in the council’s department of planning should be able to use an updated DCP to motivate the DA applicant to design their home so that it was compatible with the streetscape, and respect the neighbours’ right to light and privacy.

10 MR O’CONNOR: You have 30 seconds to wind up. Thanks.

15 DR HOWELL: I’ve got 30 seconds. Thank you. Instead, the neighbourhood of North Rocks has been subjected to this oppressive process requiring enormous time and significant cost in hiring an independent planner, and as a result, thousands of words have been written, not only by us, but also by council staff. So if a relevant updated DCP existed for our it may have saved considerable time and effort. And so I call on this PLPP to reject the DA, and I appear to the City of Parramatta Council to expedite the revision of the DCP. I close with a relevant quote from the minister of planning, who last November said, “It is impossible, utterly impossible, to build houses if the public simply do not want them in their communities” Thank you, Mr Chairman.

25 MR O’CONNOR: Thank you, Dr Howell. Any questions of Dr Howell?

MR HUSSEY: Could I just ask you, you say this building design doesn’t fit in the streetscape, what are the important elements of the streetscape that any place should incorporate?

30 DR HOWELL: I don’t want to take your time, sir, but we have considerable numbers of pictures, and Patrick Ageesy has actually taken a considerable number of pictures that illustrate that all the houses in the vicinity are single storey houses, except for one or two, but the new builds, right next door and across the road, Mr Ghuzal’s house, are all single storey, fitting in the demeanour or the ambience of the community. There is one house that is at the end of Woodbury, on Hampton, where the owners – it is a two storey home. It looks exactly like the other houses in the area, and they’ve taken very careful consideration of the solar panels of the house next door.

40 We feel that Mr Sharmer did not do that with us. And may I say, we asked Mr Sharmer to consult with us as neighbours before this whole process ever began, and if this DA is rejected, we appeal to Mr Sharmer. We are his friend, we want to be his friend, we want to welcome him and his family into the community, but we don’t want to go through this process, and I’m sure he doesn’t either. We want to be able to consult with him in having a beautiful home for him, but that fits into our
45 neighbourhood.

MR O'CONNOR: Thank you. No other questions? Dawn Howell.

MS HOWELL: I'm John's wife, and I live at 85 Woodbury, and I'll just be very brief. But I just want to emphasise that we love our community. We've lived in that
5 house, our kids were all raised there for about 30 years, and we are not opposed to new builds. We do not want to be misunderstood. There are five new builds that have gone up in Woodbury and Hampton. One on Hampton Street. And they are very sympathetic with the neighbourhood, even though they're contemporary new builds. We were very excited when 83 Woodbury was sold, and very excited when
10 he talked to Mr Sharmer out front in their yard about – he was contemplating taking down the house and building something new, and was going to be two storeys.

We were absolutely fine with that, but then, of course, the architectural design and the bulk of the building, the size of it, the overshadowing of our home and the
15 intrusion on the streetscape, as indicated by the picture that John just showed you, were shocking to us. So we tried several times to contact him and get together him in a neighbourly fashion and never heard from him. So it's very sad that it had to come to this, with all the expense and time that has been taken, when we think this could have been solved just by communicating. Okay.

20

MR O'CONNOR: Okay. Thank you. Any questions? No. Next speaker is Christine Morgan. Thank you, Christine.

MS MORGAN: Good afternoon, everyone. Christine Morgan. I live at 81
25 Woodbury Street on the northern side. We've lived there for almost 30 years. Sorry. We're delighted to have new neighbours. Once again, we prepared for a knockdown rebuild, two storey. We've knocked down and rebuilt ourselves. We have no opposition to that. It's this development that we have opposition to. And the footprint has been amended, and the amended DA has been moved closer to our
30 home, within a metre of the boundary, which has caused considerable concerns for us now, because that will dwarf or house, overshadowing – they're all our bedrooms along there.

And the garbage bins are going to be, you know, right on the fence there, which can
35 cause odours, et cetera, not allowing us then to open our windows for fresh air coming through. We also have the two big air conditioning motors, condensers, there just outside our bedrooms, bathroom, which there's noise pollution associated with that and also the pump from the water tank will be there. So all of those have got a potential to devalue our property and to impact on the quality of our life.
40 That's it for me. But, you know, we don't oppose a development, but we're against this particular development.

MR O'CONNOR: Thanks, Christine. I'll just see if there are any questions. No? Thanks for your submission. Garry Morgan, please.

45

MR MORGAN: Good afternoon. I'll be brief, because I'll be doubling otherwise. The proposed development as it stands has a sustainable design, which is good, but it

does not make the homes of 81 and 85 sustainable, as it would have visual bulk of building; overshadowing; noise pollution; odour pollution, as Christine has mentioned, especially in the summer months, bins being one metre from our boundary, adjacent to our bedroom; loss of property value; and loss of privacy. A
5 sign of a good development design is when it blends in with other homes in the area, and this does not. Thank you.

MR O'CONNOR: Thank you. Just wait there. Any questions of Gary?

10 MR: No. Thank you.

MR O'CONNOR: No. Okay.

MR MORGAN: Thank you.

15

MR O'CONNOR: Alfred Ghuzal.

MR GHUZAL:

20 MR O'CONNOR: Not talking? Okay. That's fine. Elizabeth is - - -

MS GHUZAL: Yes. I'm here, but I'm not

MR O'CONNOR: You don't wish to speak. No problem. And Donald Burgess.

25

DR HOWELL: They all gave their acceptances, but not to speak. There was only four of us who were going to speak.

MR O'CONNOR: Okay. That's fine. Thank you. Now, I understand we've had a
30 request. Is the proponent, or applicant, present today?

MR SHARANDEEP: Yes.

MR O'CONNOR: Yes. I understand you've requested that this matter be deferred
35 from our agenda. Do you wish to speak at all?

MR SHARANDEEP: At this moment, all I requested was deferment to see whether council was keen on doing this. So we have the design as per our last meeting and or discussion.

40

MR O'CONNOR: We might get you to come up - - -

MR SHARANDEEP: Okay. That's fine.

45 MR O'CONNOR: - - - just to make sure it's all recorded.

MR SHARANDEEP: Hi. I'm Sharandeep.

MR O'CONNOR:

MR SHARANDEEP: As I've requested in the email, to defer this adjournment so that I can work on with the council to see what else do we want to achieve a balance
5 design, and work from there. At the moment, as per our discussion with the council
last time, it was deemed to be numerically all acceptable as for the Hills council
DCP, and the shadow concern to the southern side neighbour was also alleviated by
moving it further down, two metres away from the So we thought we had agreed
- worked out all the aspects of this, but if the council has more concerns, we are
10 ready to work with them to achieve a balanced design.

MR O'CONNOR: Thank you. Do you have specific changes in mind you were
looking to make, or you just want to have - - -

15 MR SHARANDEEP: No, we need an opportunity to - - -

MR O'CONNOR: - - - an opportunity to talk more with council officers to see what
their suggestions are?

20 MR SHARANDEEP: We would like to talk to the council officers and see what is
exactly is the scenario, but then we can make a decision on that.

MR O'CONNOR: Okay. Any questions from panel members?

25 MR MORGAN: Excuse me, can I ask a question?

MR O'CONNOR: Well, what's the question? Better tell me first.

MR MORGAN: Are they willing to work with us as well as the council? with
30 the neighbourhood?

MR O'CONNOR: Do you wish to answer that or not?

MR SHARANDEEP: No. I'll leave that to the council, if they're okay to work with
35 them.

DR HOWELL: Mr Chairman, I do have a question. I was assured by the council on
repeated occasions after such considerable effort that this was going to the PLPP,
which is a State Government authorised body who make the final decision as a result
40 of this DA, and then its amended DA, and I believe that this introduction is out of
order, and I wish to put my point to you as chairman to say it is out of order. The
panel has been given a jurisdiction to make a decision on the amended DA, and if it
is rejected by the panel - if it's accepted, well, we have to live with it; but if it's
rejected, then the applicant, the DA applicant, has to start all over again. And this
45 time, as I said before, we would like him to consult with us, because we want to
welcome him into the neighbourhood with a compatible house.

MR O'CONNOR: Okay. Well, just so you're clear with the situation that we're in. We've had a request that this matter be deferred. It doesn't mean it won't be considered by the panel again, and a decision won't be made by the panel, but the request is the panel not make a decision tonight. The panel has yet to decide whether it will agree to that request to defer.

DR HOWELL: Thank you, sir.

MR O'CONNOR: And we just wanted to hear, first of all, from the applicant about why he wanted the deferment.

DR HOWELL: Thank you for the clarification.

MR O'CONNOR: Okay. Now, questions? Thank you

MR HUSSEY: Well, part of that consideration of whether to defer or not, in terms of efficient decision-making, you've heard what the objectors have to say. They say it doesn't fit in with the streetscape. Are you able to incorporate any of the streetscape elements in there to make it fit better?

MR SHARANDEEP: We can work towards that.

MR HUSSEY: What are they?

MR SHARANDEEP: Well, at the moment they don't have any flat roofs at the moment in the but if they're keen – at the moment, let me work it out with the council what exactly is their concern in the and then I can work with it. But to me, as per the Hills Council DSC, we have ticked off all the requirements. We have addressed all their requirements. Their major concern is being a double storey house right next to a single storey house, which is making them lose a – a shadow, basically. They're casting more shadow. And privacy concern. So the privacy concerns have already been assessed, and given that all the heights of the windows, which are overlooking into any of their yards are at 1500 or have obscure glazing. And the shadow, we have proven on the shadow analysis that 50 per cent what is required under the Hills Council DCP or NDCP, 50 per cent of the neighbours' property do get sunlight on June 21. There's no on the site, so we have tried to remain within the Hills Council scenario. But again, as I said, I'll work with the council - - -

MR HUSSEY: One of the elements they identify is the southern elevation.

MR SHARANDEEP: Yes.

MR HUSSEY: With the high windows.

MR SHARANDEEP: Yes.

MR HUSSEY: It's a log elevation. There's no relief in that elevation.

MR SHARANDEEP: We can work with that. Yes.

5 MR HUSSEY: And that's not characteristic of that area.

MR SHARANDEEP: Yes.

10 MR HUSSEY: Can that be improved?

MR SHARANDEEP: Yes, that can be improved.

MR HUSSEY: The other critical one is the rear setback.

15 MR SHARANDEEP: Yes.

MR HUSSEY: That's non-compliant.

20 MR SHARANDEEP: On the first floor. Yes. That can be pushed back into the six metre setback. Yes. That can be done. Yes.

MR O'CONNOR: Thank you. Any other panel members with questions? No.

25 MR: No.

MR O'CONNOR: Okay. Well, look, we might just take a short adjournment to consider whether we'll grant the request for deferral of this matter or determine the matter tonight.

30 MR SHARANDEEP: Yes. Okay.

MR O'CONNOR: Just excuse us, we'll be back in a short period.

35 MR SHARANDEEP: No worries. Thank you.

ADJOURNED **[4.08 pm]**

40 **RESUMED** **[4.12 pm]**

45 MR O'CONNOR: Thank you once again for your patience. We've decided that we will grant the request for deferment from the submissions that we have heard and given what the applicant just outlined, it appears that there is a genuine possibility of some amendments being made, which will hopefully address some – at least some of the concerns being raised. We'd like to give the applicant that opportunity to consult

further with residents as he's indicated, I think, a willingness to do and to talk further with council staff and address some of those key issues that were raised, the setback, the southern elevation – you know, the streetscape issues. We think they are relevant issues and they need to be taken into account and giving the applicant an opportunity
5 to revise the plans is going to provide that potential for some improvements to be made. So item 5.1 is being deferred to allow the applicant to discuss the matter with council staff and submit amended plans.

DR HOWELL: Mr Chairman, can I just make a point and that was the conciliation
10 conference organised by the council was precisely for that purpose and Mr Sharandeeep was there an all these points of concern were raised at that time and then they submitted on the 22nd of January yet another minimalist set of amendments and I believe that the decision you have made is actually out of order and I wish to make that put on record that it is out of order because this is meant to be a final meeting
15 and the conciliation conference was meant to sort out all those problems and it wasn't sorted out.

MR O'CONNOR: Dr Howell, we're well aware of that history. It's all documented
20 in the report - - -

DR HOWELL: Thank you, sir.

MR O'CONNOR: - - - before us. So we're quite familiar with the way in which
25 this matter has proceeded.

DR HOWELL: Thank you.

MR O'CONNOR: And we note your concern.

30 DR HOWELL: And we respect your decision.

MR O'CONNOR: Item number 2 relates to a property in Boronia Avenue, Epping. We have three members of the public – yes, you're excused. Thank you.

35 MR: Thank you.

MR: Thank you.

MR O'CONNOR: Three members of the public who requested permission to –
40 well, no - - -

MR: We've got two members of the public and the applicants team.

MR O'CONNOR: Two members of the public and the applicant's team. I take that
45 back. Is Bronwyn Best present? Thanks Bronwyn.

MS BEST: Can I just ask, last time you were here the – is the developer speaking
- - -

MR O'CONNOR: Yes, they've asked permission as well.

5

MS BEST: Okay. Last time we were here we spoke first and then developers spoke second. So I would respectfully request that they speak first today.

MR O'CONNOR: Does the development group have a problem with that?

10

MR MEAD: Our preference, Mr Chair, would be to go second just simply so we could respond to any of the objections that were raised. Obviously, we'll accept - - -

MS BEST: We've - - -

15

MR MEAD: - - - whatever procedure you'd like to follow, but that's the typical course so we can make responses.

MR O'CONNOR: Okay.

20

MS BEST: We feel the same, that we could respond to you.

MR O'CONNOR: Okay. Look, I'll take it in the order in which it's listed here on the council – this paper. If you don't mind coming forward, thank you, Bronwyn.

25

MS BEST:

MR O'CONNOR: Yes. By all means.

MS BEST: Good afternoon. My name's Bronwyn Best. I am a resident of Boronia Avenue, Epping. Excuse me. And if you don't mind, I will read my response.

30

MR O'CONNOR: Not at all.

MS BEST: Last time I was here, I spoke and I don't feel I got all my points across. So that's why I'm reading today. So just because you can build it doesn't mean you should build it. Speaking on behalf of other residents who are unable to speak today, we all agree we bought our homes and chose to live in Epping for a number of reasons. These included access to public transport, large residential blocks of land, excuse me, good schools and a green, leafy suburb.

35

40

This development application has been rejected previously by Parramatta Council and the Land and Environment Court. The building of an eye hospital, a commercial enterprise in a residential street is not of any benefit to the surrounding neighbours. After having their previous plans rejected, the developers are now resubmitting plans after buying the block next door. Whilst tweaking the plans to comply with Council's building codes, they've not addressed the residents' main concerns. It

45

does not enhance or fit with the current streetscape, the bulk and scale of the building is too large and is overpowering to the surrounding houses, causing privacy issues. It will create major parking, traffic and safety issues in the street and surrounding streets. It will adversely affect our lives. It will involve the devastating loss of a
5 number of mature significant trees.

A major concern is the parking in the street. The proposed parking – six spots; they have eight staff. The facilities are inadequate. The street is already a busy one which already has one day care centre and now, a proposed second day care centre to
10 be built at the top of the street at number 65. It is already dangerous with inadequate parking for parents utilising the child care facility. I have personally seen a number of very serious incidents with parents picking and dropping off their children with nowhere to park. The development site is very close to a very busy roundabout, with
15 a bus stop directly opposite. I'm extremely concerned that cars trying to find and pull into the proposed eye hospital around a tree that's on the side of the – on the road to which it's – I'm sorry, I lost my place there. Cars trying to find and pull into the proposed eye hospital, the entrance to which is very close to this busy intersection, will exacerbate the already dangerous situation.

20 Add to this school children walking to school, 900 units have been built a couple of streets away and the street is between these units and the local school. Patrons dropping off and picking up their dogs for grooming at the dog groomers, the clients of the hairdressers, café, veterinary practice, florist, gym and bottle shop, all needing to park their cars to use these services. The businesses that have been there
25 for many years and they rely on their customers to be able to park their cars nearby for the businesses to survive. No parking facilities exist for all these businesses.

Further to this, as there is no parking facilities for the major bus and train transport hub that is Epping Station, commuters are now forced to park as far away as Boronia
30 Avenue and Midson Road – I've only about two sentences to go – in order to commute to their place of work. The suburb is choked with cars. We are not opposed to developed, we are opposed to inappropriate development that does not benefit the local community. In conclusion, this proposed development will not enhance the lives of the neighbours but in fact have a very detrimental effect upon
35 the way that we live our lives.

With the developers' quest to build this facility at whatever cost, they have ignored the local residents' concerns. In the words of Commissioner Chillcot of the Land and Environment Court, and I quote, "I agree with the Council that the proposed day
40 surgery will provide services that would meet the more infrequent needs of non-resident population drawn from a larger geographic non-local area rather than the day-to-day needs of residents. Consequently, I conclude that the proposed development is not consistent with the objectives for the development within the R2 zone in which it is proposed to be located." Enough said. Thank you very much.

45 MR O'CONNOR: Thank you, Bronwyn. Just stay there in case there's any questions.

MS BEST: Certainly.

MR O'CONNOR: No questions? Thank you.

5 MS BEST: No.

MR HUSSEY: Thank you.

10 MR O'CONNOR: Margaret McCartney. Thank you, Margaret.

MS McCARTNEY: Good afternoon. I'm Margaret McCartney and I represent the Epping Civic Trust today. We object to this development application and support residents objections for the reasons given, such as the traffic, parking, safety, security, overshadowing and inappropriate location, loss of character of the area and
15 loss of privacy.

Similar development applications, as has already been expressed for this site, have been refused and for good reasons. We don't see that anything has changed. We dispute the three reasons given in the Council report to support the recommendation
20 for approval.

Reason 1 states "the development is permissible in R2 zone and satisfies the requirements of all the applicable planning controls". This contradicts previous findings for the DA for this site, which have identified the proposed development is
25 not consistent with the objectives of R2 zoning and have found issues with the bulk and scale of the – and the hospital not being considered suitable in its context as it did not maintain an appropriate urban character and level of amenity appropriate in a low-density residential environment. These issues still exist and demonstrate this development is not permissible in the R2 zone.

30 The DA also does not comply with the LEP requirements for deep soil space and landscaping area. The failure to provide adequate deep soil space will not allow the 11 trees being removed, including significant trees, to be replaced and maintain the streetscape and character of the area. So it is not correct to say it satisfies all the
35 applicable planning controls.

Reason 2 states "the development will be compatible with the emerging and planned future character of the area". How can this be stated when there has been no community consultation or public exhibition in relation to any changes for the
40 planned future character of the area, such as rezoning or creating a commercial hub or the infrastructure that this will need. Unless these plans have been formalised through Council processes and can be verified, which we believe they cannot, we do not think this can be considered as a valid reason for supporting this DA.

45 Reason 3 in the Council report states "for the reasons given above, approval of the application is in the public interest." As outlined – as I stated, we disagree with the

reasons above. We therefore find this report fails to show how the DA is in the public interest.

5 Previous applications to build a hospital on this site have also been refused and we ask for this DA to also be refused and just as an aside, we would like to request, just for accuracy of records, in the Council's report, application history could the dates be changed from 2019 to 2018 just for clarity and so it doesn't mislead future stakeholders who read it.

10 MR O'CONNOR: Thank you, Margaret. We will note that. Any questions? No. Thank you.

MR FLETCHER: Mr Chairman, can I just take the opportunity to correct an error on my part. That it's actually the site of 5.2 that company I had previous
15 involvement with was then not item 5.4. So just correct the record and, yeah.

MR O'CONNOR: Okay. We'll note that. Thank you. Now, there's a list of people to speak on behalf of the application. Is – the order I've got here is Jeff Mead followed by Roger Cronan - - -

20 MS MORGAN-TAYLOR: We were put down as three.

MR O'CONNOR: Sorry, what's your name?

25 MS MORGAN-TAYLOR: Julia Morgan-Taylor.

MR O'CONNOR: Okay. So you did register?

30 MS MORGAN-TAYLOR: And Kylie Keller.

MR O'CONNOR: Okay. Well, by all means. Let's hear from you, please.

MS MORGAN-TAYLOR: It will be very brief.

35 MR O'CONNOR: Okay. Just state your name when you sit down so we've got a record.

MS MORGAN-TAYLOR: Julia Morgan-Taylor.

40 MR O'CONNOR: Thank you.

MS MORGAN-TAYLOR: I'm at the back of the property. The adjoining – exactly adjoining - - -

45 MR O'CONNOR: Yes.

MS MORGAN-TAYLOR: - - - and I see the new plans have now got a patio which
ill – at the back, which will invade our privacy. It will stare right into our bedroom,
right into our living room and also, before they had an acoustic amenity and it wasn't
acceptable. And yet, now, it's suddenly acceptable on the same report and the senior
5 – Council's senior environment health officer has reviewed the court and their
document is not sufficient and they haven't done anything. They haven't put a new
report in. The noise of the air conditioning will be right near our backyard. We use
the backyard – we're retired, obviously, and we use it continually. So we'll be
listening to an air conditioning the noise from this huge building, which is a
10 commercial building in a residential area. It's quite simple, really. That's what it is.
And it's in Epping and you know how leafy and green Epping was and now suddenly
we have all these developments going on which don't benefit the public at all.

MR O'CONNOR: Okay. Just – any questions? No. Thank you. And our fourth
15 speaker.

MS K. PHILIPS: Very nervous. My name is Kylie Philips.

MR O'CONNOR: Thanks, Kylie. Just relax. We're not here to frighten you. You
20 take your time and - - -

MS PHILIPS: I live at the property 103 Midson Road which our backyard borders
the backyard at this development wants to be on. I believe my privacy will be
impacted greatly. I've got three young children, trying to raise a family, and that
25 deck will overlook my backyard. We're on the down. Their property is proud to
mine so they will actually – there's eight steps, I note. You know, I'm not an
architect but I imagine that's quite a high gradient and they will have complete view
into my backyard as well as my neighbour's. I still don't believe and I disagree with
the council's report – this does not meet the day-to-day needs of residents. It – or
30 hopefully it never will for me and my family but it's just of no benefit to us
whatsoever.

And the big one I would like to point out is there was a tree application put in on –
and the report, the assessment report for TA6652018 dated 21.12.18, there was tree 5
35 which is a spotted gum, I believe – I don't have the right name for it – was
recommended to retain and now it's allowed to be removed. I'd like to know why? I
believe it's because of the development – you know it's a 22 metre – you know, I
don't have a tape measure that long – tree that is of significant value to a – you
know, to the environment as well as my streetscape and view out of my children's
40 bedroom windows and I just can't understand why all of a sudden it's okay to be
removed, so I'd also like to seek if we can get a second opinion and, yeah – and
possibly look at going to the Land and Environment Court as residents against the
removal of that tree.

45 MR O'CONNOR: Okay. Anything else?

MS PHILIPS: Okay. That's all. Yes. It's a completely different decision, this council decision, to the previous two. I don't know what has changed or what – you know, it was refused by yourselves, the previous one, not the same plans. But they're over – there's not enough deep soil. There's so many conditions on this.

5 And can I seek clarification of what a deferment or what the council has suggested – can I seek clarification, as a resident?

MR O'CONNOR: You can read the council reports that are public record.

10 MS PHILIPS: Yes, I have. And luckily I was able to read it yesterday, because it didn't go up a week prior.

MR O'CONNOR: Right.

15 MS PHILIPS: It only went up a few days prior. So, you know, as someone – this has, like, affected me so much already. And, yes, I would just like you to take it into consideration that I – hospitals don't belong in R2 zoning. You know, they never go on holidays. They're there – you know, and it's a massive footprint that it's going to leave and for me and my family and my fellow residents to endure. There's much
20 more suitable places for such things.

MR O'CONNOR: Okay.

MS PHILIPS: Thank you.

25

MR O'CONNOR: Just wait there, see if we have any questions for you.

MS PHILIPS: Yes.

30 MR HUSSEY: No. Maybe can I just clarify, I did read the suggested draft conditions and the deferred commencement condition is that a more-detailed investigation of the drainage collection and disposal system is done and in fact meets council satisfaction, then the consent operates – continues to operate. So that's why it's deferred, to get the drainage sorted out.

35

MS PHILIPS: Yes. Okay.

MR HUSSEY: Could I ask you another question.

40 MS PHILIPS: Certainly.

MR HUSSEY: You talk about the concern from the upper-level balcony, looking into your backyard.

45 MS PHILIPS: Yes.

MR HUSSEY: What's that separation distance?

MS PHILIPS: Well, what's the setback? It's not even at full 30 per cent. I think their setback is six – I'd say six metres. And there's no trees or anything there. And I've got – if you allow time for the privacy and all the rest of it, it will be years. My kids would have probably grown and left home by then. In the meantime, you know,
5 we don't get to enjoy our backyard the way that we've hoped to and have planned to in our R2 family home of 96 years.

MR O'CONNOR: Thank you. Now, back to the proponent. Is that order the order
10 you wish to proceed in, that - - -

MR MEAD: Yes.

MR O'CONNOR: Okay.

15 MR MEAD: Thank you.

MR O'CONNOR: Fine. So Jeff Mead, is it?

MR MEAD: Yes, it is.
20

MR O'CONNOR: Thank you, Jeff.

MR MEAD: Jeff Mead, consultant planner for the applicant. The rest of the team
25 are here. I will make submissions on the application and they're here in case any questions come up in respect of any specific disciplines. I have our stormwater engineer; I have our architect; I have a client representative; and I also have an environmental lawyer, who is running the appeal that has been filed on this application. So, as I said, any questions that arise, they would be happy to answer. Just to start, we endorse the assessment that has been made in the application.
30 There's a very long history to this application and this is a very different application to those that have been considered by the panel previously. We accept the recommended conditions and we also accept the deferred commencement condition that has been recommended. In terms of why this application is different and this response to some of the points raised by the objectors, effectively there have been
35 two applications refused on the site or a previous site.

The fundamental change is that the site has grown larger. An additional allotment has been added. And there has been significant changes to the design of the proposal as a result of that. The previous applications that were refused were a full two
40 storeys in height. You will see that this application is a single storey with a slightly-raised subfloor, to provide some subterranean car parking. As a result of the additional site area, the building is now easily compliant with the FSR control. It's at 42 and a half per cent, versus a point 5 control. And the proposal is well below the height limit that applies. Those aspects of the proposal go directly to the character
45 question, which has been raised by some of the objectors. There is no specific precis and character statement.

It's not a heritage conservation area. And so the character of development on the site is informed by the built-form controls, which the proposal complied with those core controls of the LEP and, as you will see in the report, is also close to compliance with some of the DCP controls, in terms of deep-soil landscaping and so on, which
5 don't in fact apply to the proposal, given that it's a medical use under the infrastructure set. To deal just quickly with a couple of the specific concerns, there were concerns raised about the privacy from the balcony at the rear of the site. That balcony is a balcony is intended for staff to be able to break out to. It's set back from the rear boundary by 13 and a half metres. There's significant deep-soil area around
10 the site boundaries that will assist in screening. And there's also privacy screening on the balcony itself.

So, in our view, those issues are dealt with. In terms of parking and traffic, you will have seen in the staff report that the proposal is compliant with the car parking
15 requirements. And in terms of traffic, the use is in fact a low-traffic generator. As you will see in the statement of environmental effects, the operation of this surgery is such that there will effectively be 10 car trips in in a morning for patients arriving and 10 car trips out in the afternoon for patients leaving. Patients are typically on the premises for up to four hours and are typically dropped off and picked up, in the
20 sense that they can't drive after the surgery that's undertaking on the site. So it is in fact a low car generator and can't be compared to the child care centres and so on that were referred to by some of the speakers. In terms of – if I may just have another minute.

25 MR O'CONNOR: Yes. I'm happy to allow you a little extra time, if the others aren't speaking.

MR MEAD: That's fine. As I said, in terms of the character issues, you will see that the character elements that we say blend this proposal or make it compatible
30 with the neighbourhood are obviously the height of the proposal, but also the domestic architecture. You will see that the materials used, the landscape front setback, but for the disabled access ramp, which is screened by landscaping and so on – the setbacks particularly to the rear, as I said, a 13 and a half metre setback, that has significant deep soil planting – are elements that tie this in with the
35 neighbourhood, which, as you would have seen out on site, is in fact opposite a neighbourhood commercial centre as well. So we endorse the staff conclusions in that regard. I think I've dealt with the issues that were raised by objectors, but we would obviously be happy to respond to any questions the panel may have and also any technical questions for the other experts.

40

MR O'CONNOR: Okay. Any panel members with questions? Thanks, Warrick.

MR McLEAN: Jeff, you highlight the six car spots.

45 MR MEAD: Yes.

MR McLEAN: Your report highlights there's eight staff.

MR MEAD: Yes.

MR McLEAN: Work me through that one.

5 MR MEAD: Yes. So, essentially, as I've said, in terms of the patients coming to
the site, the typical operation is that they are dropped off and picked up, and so
effectively there's a turning area on site that will facilitate that to occur. So the
spaces that are on site will be largely for staff use. Yes, I note that there's six to
10 eight employees on the site and there's six car spaces. The site is well served by
public transport. As you would have seen today, there is a bus route along the edge
of the site. And, as I said, the parking rates – the parking provided complies with the
rate and the parking rate takes into account all of those things, in terms of modal
split, which will – is deemed to not be 100 per cent for these types of uses. So close
15 to one car space for all staff members. Yes, the maths don't exactly equate.

MR McLEAN: The math don't work for me, Jeff, unfortunately.

MR MEAD: But it's compliant with the RMS rates. And the RMS rates are based
on significant research - - -

20

MR McLEAN: Yes. I'm very conscious of that.

MR MEAD: - - - of similar facilities.

25 MR McLEAN: And in terms of knowing that intersection very, very well, the
volume of traffic that is coming through both those streets, the rat run that's
fundamentally happening, has any traffic review been done to assess what's going to
happen moving forward? Because I'm conscious this will go in – as has been
highlighted, there are other potential opportunities coming on board. I'm conscious
30 that we've only got this application in front of us. But from a traffic perspective,
during peak it is a gridlock. So in terms of risk, kids coming down from that school,
coming back down towards Eastwood and the brick pit, where are we up to with
that?

35 MR: Okay. So when it comes to looking at through traffic and the traffic
environment, you need to relate that aspect to the DA at hand and assess whether
traffic generation created by this proposal in particular is such that it would, you
know, compound – there are certainly traffic issues that are probably larger than

40 MR McLEAN: So that's probably what I'm highlighting.

MR: No. I understand that.

45 MR McLEAN: Unfortunately, we've got the application in front of us and I accept
that we need to make a decision on that. But you and I both know and so do the
residents down the back – yes, something needs to be addressed, in terms of research

understanding what's happening, particularly in that intersection, because this morning I could see lights having to go into that intersection.

5 MR: Yes. So our - - -

MR McLEAN: Because of the volume of traffic that's coming through.

10 MR: Sorry. Sure. And our conclusion from this DA, based on the parking rates that are guided by RMS, is that, you know, they're deemed to be sufficient, so therefore - - -

MR McLEAN: I accept that. But the math does not work for me.

15 MR: Yes. Overall, I appreciate there's definitely a parking issue in the area.

MR McLEAN: Yes. Yes.

MR O'CONNOR: Any other questions, Warrick, for Jeff?

20 MR McLEAN: No.

MR O'CONNOR: Any questions?

25 MR FLETCHER: Yes. I've got a question. I was going to follow up on the parking one, but I think that has been covered. But I think it was Ms Best that said – or referenced a Land and Environment Court decision that apparently found a proposal was inconsistent with its own objectives. Can you comment on that?

30 MR MEAD: Yes.

MR FLETCHER: I appreciate it's a different site and that it's a different scale. But the use, as I understand it, is the same.

35 MR MEAD: Yes, most definitely. In terms of the Land and Environment Court decision, the original application that was heard by the court had an FSR non-compliance and there was a clause 4.6 statement that was tested by the court in that regard. One of the tests, as you well know, of 4.6 is compliance with its own objectives, in terms of meeting the bar for the 4.6 to be supported. The
40 Commissioner made comments with regard to the objective that deals with the proposal meeting the day-to-day needs of residents. Now, evidence was provided in that regarded and again it's provided in the current documentation. And the proposal is being likened to other uses in the street, such as child care centres, that might meet a certain segment of the community, just as the hospital will, and some of the other
45 uses that are non-residential will meet different segments of the population, rather than meeting everyone's need at all needs. That's a very significant test.

That said, the current application doesn't have a 4.6 test, but has also been submitted under SEPP infrastructure, which effectively is a different pathway to permissibility and sets up a different planning regime against which the proposal shall be assessed. In terms of the SEPP infrastructure is the facilitating instrument that encourages
5 health facilities, as well as other types of infrastructure within our two zones and effectively it sets up criteria against which the application must be assessed, which is dealt with in the staff report, the main consideration there, from a planning point of view, is that the proposal must be found to be compatible with the character of the locality. And I went into that earlier. In terms of the zone objectives, we say that the
10 proposal is not antithetic to that objective. It doesn't preclude that objective from being met in the zone and on other sites. But we say that not every application needs to meet that test, provided it's not antithetic to that test. So it's a different planning regime against which the application is assessed. The 4.6 has gone away and this application is made under the SEPP infrastructure.

15

MR FLETCHER: Thank you. Another different question, if I may: the concern about noise from air-conditioning, I know the plans indicate air-conditioning in an extension to the building at ground level in the rear yard.

20 MR MEAD: Yes.

MR FLETCHER: Is there any reason why it needs to extend the building? Could that not be in the undercroft of that section of the building? It appears to be quite high. And would that not improve the landscaped area and deep soil area.

25

MR MEAD: The air-conditioning is located there because it is well separated from the neighbouring property. It's set back by about 12 metres from the rear boundary and there's solid boundary fencing proposed. The acoustic report sets recommendation that obviously the proposal must comply with the relevant
30 Australian standards in relation to noise. So, in our view, that can be met. And the location of it will allow that. In terms of the undercroft area, as you can see, there is a lot happening there: a very small plant area for this type of area, the waste area, two car space and the turning bay. And so everything has been done to - - -

35 MR FLETCHER: No. Sorry. I'm talking about simply setting it further back where it is under the building.

MR MEAD: Setting it back further there. Yes, into the subfloor area.

40 MR FLETCHER: Yes.

MR MEAD: Yes. If that worked from a technical point of view, yes, that would be an acceptable - - -

45 MR FLETCHER: And it would increase the landscaped area and deep soil area?

MR MEAD: Yes. So if it's technically possible, I don't see a significant issue with attempting to do that.

5 MR FLETCHER: You have an engineer here. Is it - - -

MR MEAD: A storm-water engineer.

MR FLETCHER: Storm-water? Okay.

10 MR MEAD: Sorry.

MS DAVIES: We did actually look at putting it underneath the building. Unfortunately, it was just a little bit too high. It looks like it's a long way off the ground, I think it's only about 800mm

15

MR FLETCHER: And it couldn't be excavated?

MS DAVIES: Yes? We can excavate. I could just and then there's to the extra excavation and also it does need to be well ventilated. That's the other

20

MR FLETCHER: Sure. Sure. Thank you. No further questions.

MR O'CONNOR: Okay. Robert, you have questions?

25 MR HUSSEY: Yes. Can you just explain to me, because I didn't have time to check before we came in, the landscaping in the back yard.

MR MEAD: Sure.

30 MR HUSSEY: Firstly, does that large gum tree down the back – is that on your property and is that retained?

MR MEAD: Yes and yes.

35 MR HUSSEY: Okay. So along the back boundary there's all sorts of little dots. What are those species along there? Their height and whatever.

MR MEAD: Yes, I knew you were going to ask me that. I don't have the landscape

40

MS DAVIES: There is a large variety of trees down there. Some of them, I think, would be

45 MR MEAD: So there's a planting schedule. There's two tuckeroo. Two tuckeroo are the large trees at the centre of the rear boundary and in the south-western corner. There's a planting schedule – there's a second sheet to the landscape - - -

MR HUSSEY: Yes, but I haven't got - - -

MR MEAD: Right. There's a very detailed schedule of planting on the second sheet.

5

MR HUSSEY: I want to know how high they're going to be and how dense.

MR MEAD: Okay. So – well, in terms of the tuckeroo, a mature height of 15 metres. Then – I'm reading through the list, sorry. Then there's a hedging plant, sweet viburnum, which are one and a half metres high. So that's the hedging plant that we'll run through right along the boundary. That's the 18 or so small circles that you see. There is azalea – there's a bunch of shrubs and so on. But the trees, the tuckeroo, are the accent plants along the rear boundary as well as the existing gum that remains.

15

Interestingly, through the previous appeal, a landscape issue that was raised by council staff was that – and by objections – was that the density of planting along the rear was too significant. And through the court process, a bit different to usual, we were trying to reduce the density of the planting through there that related to shadow impacts on the properties to the south and just that effect of having a wall of planting. That's why you see – well, there's essentially four canopy style plants within the lower planting.

20

Our original scheme had six or seven tuckeroo dotted around the rear boundary – the rear deep soil area, which we saw as a way of screening the building and reducing its bulk and all those types of things. At the end of the day, given the use, our client would not be opposed to whichever planting scheme was preferred, whether that be more plants or less plants.

25

MR HUSSEY: Could I ask, the planning then – I would have thought that if the application was to be approved and people are concerned about their privacy loss, then a privacy screen of planting would soften and probably do the blocking. I've been told that viburnum – only 1.5 – they're below the fence height. They're not going to do any screening. Is it possible, is it practical to have a plant screening of, say, 2 metres along there that would block overlooking between the two properties? But that seems to be contrary to the previous working outs. What's our best approach now to address what the neighbours are concerned about?

35

MR: You could, obviously, adjust the species and density of the planting to achieve that – whether he intends for privacy or to screening bulk. You know, it's a little bit of "What's the intent there?" I appreciate sometimes neighbouring residences do get concerned that some species will get too large and it becomes an issue for them down the track, so it will be probably a consideration – mindful of the comment that's been made about that species, selection-wise. We could definitely – landscape officers could assist in that respect. I don't know off the top of my head which species, to be honest, but - - -

45

MR HUSSEY: Could I ask the first speaker, you're concerned about the privacy overlooking? If there was a landscaping screen put along there that was about two metres high, I can't see how that would interfere with solar loss to your rear yard, what would your preference be?

5

MS BEST: That's actually her rear yard.

MR: How long do the trees take to grow?

10 MR FLETCHER: I suppose it depends - - -

MR: You're talking about two metres.

MR O'CONNOR: A couple of years.

15

MR HUSSEY: Would you prefer the plan the way it is now? The landscaping plan that's recommended has viburnum that are one point five metres, which are below the one point eight metre height of the fence.

20 MR: That's right.

MR HUSSEY: It could be made a bit higher, to two metres. Which is your preference?

25 MR: Obviously, the more privacy the better. And the trees the higher – how long – these trees, how long are they going to take to grow? I can't see that – unless they buy the trees already that big and put them in – but we have – looking at this building and that will – they'll be looking at us. Our privacy is

30 MS BEST: Could I just - - -

MR: And the rear set-back is not confined

35 MS BEST: Can I just mention, too, in answer, when Commissioner Chilcott came up to the meeting on site and he actually looked into some of the neighbours yards.

MR: Yes, he did.

40 MS BEST: And had a look at Julia's house, which is the house that has a gun-barrel hallway and the idea of the house is you look from the front door to the pool, so it's – you know, you stand at the front door, from everywhere in the house you can just see this huge wall. I understand the trees might be higher or lower, but essentially she just sees this huge building which is now going to have a deck on it, which is going to look not only into her yard, but into her bedroom and her lounge room. I'd also

45

- - -

MR: one more here or

MS BEST: And Commissioner Chilcott was quite – you know, as I read his the proposed development wasn't consistent with the objections of the area. Also, I'd
5 like to point out that the number of cars – ten cars. I'd never heard that mentioned at any point in their submissions. It's been 16 – they were planning to do 16 operations today, which meant 32, you know, drop off and pick ups.

Also, I find it quite inconceivable that they think that people are going to just pull up
10 at the – you know, the bay that they're saying and just drop their loved family member the door and just – you just don't have an eye operation and then they're just going to pick them up at the door at the end? You know, if I'm taking my child or my 86 year old mother, I'm parking, I'm walking her in there, I'm probably sitting, waiting for the operation to happen and then I'll – she can't drive home or my child
15 can't drive and then I'll get – you know, come out and - - -

MR O'CONNOR: I think we understand the concerns.

MS BEST: Yes. It's – I don't know where that ten came from. If he was meaning
20 ten in the morning and ten in the afternoon, that's 20, that's still 40 pick-ups.

MR O'CONNOR: Thank you. Okay. Jeff, I have a question relating to the comments that were made earlier about the comments that were made earlier about the noise report which council officers weren't happy with. Can you comment on the
25 status of the acoustic report?

MR MEAD: I can't comment on that to the extent that there's a draft – well, there's a recommended condition that suggests that the – and that's condition 42 – that suggests that the recommendations of that report be satisfied and details of that be
30 provided with the CC. So I'm not sure how that doesn't correlate with that comment that council staff think that the report's not satisfactory.

MR O'CONNOR: Okay. Any comment from council staff about whether the report was satisfactory?
35

MR: Yes. Our environmental health officer has reviewed that report and has recommended that condition so they support.

MR O'CONNOR: Okay.
40

MR: Yes.

MR O'CONNOR: Thank you. No further questions of Jeff? Thank you for your time. I don't think we have any questions of any of the other experts that are here.
45

MR GREEN: Excuse me. I just want to let you know, my name is Gary Green, I'm a solicitor for the applicant. I just want perhaps 30 seconds of your time? I won't take long.

5 MR O'CONNOR: Take a seat.

MR GREEN: Just a couple of things very, very quickly. I wasn't involved in the court proceedings. They came to me after the proceedings and the Chilcott decision and I gave them advice to change the application to run – to use the extra block of
10 land for the floor space ratio and change the applicant to be made under the infrastructure set for reasons I think are fairly clear.

The only two other things that I just wanted to make clear, firstly, the condition with the air-conditioning, unfortunately, for my life penance I do a lot of air-conditioning
15 noise cases. That can be moved and it can be made compliant with additional excavation and ventilation. There are standard sizes and you can get various sizes, so we'd be supportive of a condition to and increase the landscaped area.

The last is, in the report, the council makes reference to – we had to lodge – we were
20 on time constraints, as you probably know, in the land almost up to a year delay these days. So we had to lodge the appeal to get the show on the road. I'm just not sure how it works with the this council, but there's a 34 mediation listed and all we want to do is make sure that whatever happens, the council has the authority to come to the 34 mediation to negotiate and discuss any matters that are outstanding
25 such as vegetation. That's all.

MR O'CONNOR: I understand that. Just – any questions?

MR FLETCHER: Just to clarify, that would only arise if the recommendation isn't
30 adopted.

MR GREEN: Yes. Yes, that's right.

MR FLETCHER: Yes.
35

MR GREEN: I just didn't want to end up not having any power to discuss matters at a conciliation.

MR FLETCHER: I understand. So there's deferred or otherwise - - -
40

MR GREEN: Yes.

MR FLETCHER: - - - that arises.

45 MR GREEN: Is that all, sir?

MR O'CONNOR: Thank you. Well, thanks everyone for your submissions. Again, I think we might take a short adjournment and come back with our decision.

5 MR HUSSEY: Can I just check with the staff, for consideration, it's suggested that there be a deferred commencement condition. Just for clarification, if you go to p.80 of the report, the top paragraph says how it works, "Upon compliance with the above requirement, a full consent will be issued, subject to the following conditions". If that's complied, isn't this the consent that operates? Not another consent.

10 MR: It means – sorry. It means the consent then becomes operative and the following conditions in schedule 2 become the operative consent conditions so - - -

MR HUSSEY: Is there any tinkering with the words that would make that clearer?

15 MR: Happy if you believe it needs to be adjusted, sure. That's the standard wording we use, but I appreciate - - -

MR FLETCHER: That's a pretty standard wording.

20 MR O'CONNOR: Okay, thank you.

ADJOURNED **[4.55 pm]**

25 **RESUMED** **[5.12 pm]**

30 MR O'CONNOR: Thanks again for your patience. The panel has discussed this application in light of the various submissions that have been made to us. We're aware that it is an application that's been lodged under a different planning instrument to that which has previously been dealt with in the Land and Environment Court, and we note that it's a different application and a different site to that previously dealt with by the Land and Environment Court, and we note a number of
35 changes that have been made to address the concerns – or attempt to address the concerns that have been raised. On that basis, the panel is comfortable in granting the deferred commencement approval, which has been recommended by the staff, but with a couple of changes to the conditions of approval.

40 The first change is to add a new condition, a condition 30A, which appears on p.88, and that new condition will state that the air conditioning plant is to be relocated and placed under the rear of the building to the satisfaction of council. The vacated area is to be landscaped to the satisfaction of council. So that's a new condition which will be added. And then under the - - -

45 MR McLEAN: Under the building. Yes.

MR O'CONNOR: And then, condition 42, which appears on page 91, we're proposing an amendment to that condition, which deals with the acoustic report that was submitted. And the change there will simply be to add, at the end of that condition, the words "accept as amended by condition 30A", just to ensure there's consistency between those two conditions. The deferred commencement consent has a series of reasons which have been proposed by the staff. We're happy to endorse all those reasons, and that appears on page 78. Sorry, it appears on page 77. Let me just be clear about that.

10 MR HUSSEY: Yes.

MR O'CONNOR: Yes. Page 77, with, again one change. There are three reasons given in that conclusion section. We would introduce a new three, which states that the privacy screen on the balcony is considered to effectively deal with the overlooking issues, and then the current three becomes four. For the reasons given above, approval application is in the public interest. So the privacy screen on the balcony is considered to effectively deal with the overlooking issues, is that additional reason. And that's a unanimous decision of the panel.

20 And sorry, one last thing. Just in terms of the standard wording that's been suggested to us for a deferred commencement condition, we would like to see those words on p.80. The last sentence, before schedule 2, to be changed. And it currently reads:

25 *Upon compliance with the above requirements, a full consent will be issued subject to the following conditions.*

The words "be issued" should be deleted and the word "operate" should be inserted. So it will read:

30 *Upon compliance with the above requirements, a full consent will operate subject to the following conditions –*

35 just to make it clear that there's not another consent has to be drafted, etcetera. That deals with item number 2. We move on then to item number 3, which is a development application in Morton Street, Parramatta. There's just one speaker tonight on behalf of Think Planners: Brad Delapierre. If you want to take the microphone, Brad.

40 MR DELAPIERRE: Thank you, Chair and fellow panel members. As you outlined, my name is Brad Delapierre. I'm a consultant town planner for the applicant. First off, I would like to thank council staff for processing this application that was lodged on 21 December in a timely manner. It's much appreciated. As outlined in the assessment report, the original approved application sought approval for 12 apartments, and this modification predominantly seeks approval to add one additional apartment or a total of 13. The approved development had one bedroom on the upper level associated with a unit downstairs. The modification seeks to add

30 square metres of living space to this unit, to create a one-bedroom unit on the upper level. This is the architectural benefit of both balancing the design in this high-density precinct that contains numerous residential flat buildings of a greater bulk and scale. Given this, I urge you to support the proposal as recommended.

5 Thank you for listening, and I'm happy to answer any questions panel members may have.

MR O'CONNOR: Thank you, Brad. Are there any questions of Brad? Nothing?

10 MR FLETCHER: Yes, a question if I may. And forgive me, because we didn't have an opportunity to discuss it with staff beforehand, but it's not clear from the plans that we have before us – it's clear what you're proposing. It's not terribly clear what exactly has been approved at that level is my first question, and perhaps you can clarify that, but related to that, to the extent that there's an increase in height and
15 you're proposing it effectively on the southern side, if not southern edge of the building – I'm just concerned about the impact of that and the future development, really, of the adjoining two properties to the south and whether that has been considered.

20 MR DELAPIERRE: In terms of the approved plan, the approved plan had floor space, you know, up against the southern boundary of the building. This is a copy of the approved plan here. So I'm happy to approach if you would like or if I'm – if I'm able to.

25 MR O'CONNOR: I think that would be a good idea. I would like to understand where the street is there, just to get bearings.

MR DELAPIERRE: so this is the approved plan. So the – the approved plan had - - -

30 MR FLETCHER: So – yes. Right.

MR DELAPIERRE: This street is Morton Street.

35 MR O'CONNOR: Good.

MR FLETCHER: Yes.

40 MR DELAPIERRE: So that that's the southern boundary, had a bedroom associated with a unit on the lower level.

MR FLETCHER: That's an internal stair down.

45 MR DELAPIERRE: Correct. So in terms of – as you can see from the plans, when I get there – I just want to make sure plan. The proposed plan seeks to basically extend the building to the north - - -

MR FLETCHER: Right.

MR DELAPIERRE: - - - and obviously provide a living area where previously only a bedroom was there. And in terms of the floor space, it's a total of 30 square metres
5 of residential floor space, and at the same time this lobby has been enclosed which adds – you know, opened as another eight square metres of floor space. So there's a total of 38 square metres of floor space additional to that approved one level - - -

MR FLETCHER: So - - -

10

MR DELAPIERRE: - - - as

MR FLETCHER: So in terms of that floor level, there's no increase in height or length of that southern wall. I know there's plant. We will get to that in a moment,
15 but - - -

MR DELAPIERRE: That's correct. My understanding is the lift shaft hasn't – has not – that has been kept at the same. As we can see on this plan, the back of the lift shaft is the same elevation.

20

MR FLETCHER: Right.

MR DELAPIERRE: So there's no – my understanding is that is – that is correct.

25 MR FLETCHER: Yes.

MR DELAPIERRE: I'm just – it is possibly

MR FLETCHER: Yes. No. That would appear to be correct from just looking at
30 those plans. Thank you. Now, additionally, there's air-conditioning plant now to go on the roof of this section – this expanded section rather than in the basement. Is there a reason it can't be in the basement as originally requested?

MR DELAPIERRE: Yes. It's certainly possible to put it in the basement, but one
35 of the constraints of this application of providing an additional unit that wasn't excessive – wasn't excessive under – to continue to comply with the to continue to comply with the DCP requirement, there was a necessary to add an additional car parking space in the basement. In order to achieve that and keep an adequate manoeuvring, there was, I guess, to use the word, necessity, or desirable to relocate
40 the plant to the roof. So it has been predominantly kept within the same footprint, and I don't believe will be a, you know, dominant element of the plan. And there certainly was, on the approved plan, an air conditioning plant room on that upper level anyway. So it's - - -

45 MR FLETCHER: But that was diluted, effectively, by the condition requiring it to be relocated, I gather.

MR DELAPIERRE: Correct. It was. So you're right, we are seeking to reinstate at that point. And from our position is that if it was a difference between, you know, approval or non-approval, we would certainly take any addition that required it to be down in the basement, and we'd explore it to every angle possible, but my current
5 concern is that, given that we accommodated an additional space in there is that it would be challenging to provide it in the basement, and it's not uncommon for a smaller development such as this, of 13 apartments, to have an air conditioning plant on the roof that is predominantly incorporated in the building; and, given it's a central location, won't be highly visible from surrounding properties.

10 MR FLETCHER: Thank you.

MR O'CONNOR: Thank you. No questions? Thank you very much.

15 MR DELAPIERRE: Thank you.

MR O'CONNOR: Answers to those couple of questions, Brad? Is the panel happy to make a decision - - -

20 MR McLEAN: Yes.

MR O'CONNOR: - - - on this retiring?

25 MR HUSSEY: Yes.

MR O'CONNOR: Okay. The panel is comfortable with the amendment that's been requested, and is happy to endorse the recommendation from council staff, which includes a change or an amendment to half a dozen conditions in the current development consent, as outlined on p.211 of the papers we have before us. And
30 again, that's endorsed. And in terms of the reasons for approval, those three reasons are considered valid, but the additional reason is that the justification provided for the increase in - - -

35 MR FLETCHER: For the noncompliance, but the height standard is accepted.

MR O'CONNOR: Noncompliance – the height standard. Is it floor space or just height?

40 MR FLETCHER: Just height.

MR O'CONNOR: I thought it was floor space.

45 MR DELAPIERRE: I understand the floor space is compliant. My understanding is was compliant.

MR FLETCHER: I'm sorry.

MR O'CONNOR: It's floor space.

MR FLETCHER: You're right. It's floor space.

5 MR O'CONNOR: It's considered justified.

MR FLETCHER: Yes.

10 MR O'CONNOR: Thank you.

MR DELAPIERRE: Thank you.

MR O'CONNOR: And, again, that's the unanimous decision of the panel. Thank
you. Okay. That moves us onto item number 4, which is application in Antoine
15 Street, Rydalmere. We have the architects and a number of individual opposed to the
development wishing to speak to us. So perhaps we take the architect, again, going
on the order we have before us. Joe is present?

20 MR EL-SABBAGH: Yes.

MR O'CONNOR: Thank you.

MR EL-SABBAGH: Afternoon, Mr Chair, panel, council staff. My name is Joe El-
Sabbagh. I'm the director of Designcorp Architects. I've been involved in this
25 project from its conception to where it stands at the moment. We have worked with
council staff, the design review panel, as well as the city architect and urban planners
to come up with what we believe is a good urban outcome for the development. I've
got with me town planner, Vidya, who's – if there is any questions that you need
clarified, we're here – obviously, we're happy with the recommendations made by
30 the council staff, and we're happy that the panel would actually go with those
recommendations. But we're here for any clarification. We've been told there's
some speakers that are willing to, sort of, go against the application, so if there's any
clarification following those presentations - - -

35 MR O'CONNOR: You're happy to provide.

MR EL-SABBAGH: - - - we're happy to provide it.

MR O'CONNOR: Okay. Thank you, Joe. Any questions of Joe or the planner at
40 this stage? No. Thank you very much. David Cooper.

MR COOPER: Yes.

45 MR O'CONNOR: Thanks, David. Do you mind coming forward.

MR COOPER: Sorry, my printer didn't work, so I've got

MR O'CONNOR: That's all right. happy.

MR COOPER: So I'm here representing my wife and my two boys, so my family. And thanks for listening to our concerns that we have with this development. Our
5 property is on the west elevation, basically in Nowill Street. Basically looking straight – directly opposite where the development is occurring. So we believe the – this development application will have a negative impact, not just on the landscape of the area but significantly for our lifestyle or our lives and lifestyle of our family and the residents within the vicinity, mainly just due to the following reasons.

10 So (1) the building is totally out of character for the area and, you know, with the height that it's going to 12 metres. It's three times the size of the majority of the properties within the 100 metre vicinity of this particular area. 90 per cent of the homes are only single storey homes and, you know, at 12 metres, this is just totally
15 out of – with the streetscape of the whole area. The size of the building is not in keeping with other units and housing developments that have gone on in the area, which predominantly are only two storey developments that we have seen within the residential area around our area.

20 Major privacy issues for our family in particular. So from the designs that were – that we've seen, we've got four resident balconies, plus four windows, three levels of stairwell openings and the communal area, plus five viewing options from the commercial premise that all will be looking directly straight into our property. Unobstructed, straight into the front of our house, which includes our lounge room
25 and our – and one bedroom. The proposal communal area – we just don't believe there's any necessity for it whatsoever and that will even be able to look into our backyard, from the height that it's at, so that's – third reason.

30 One of the biggest concerns of this development and that of the childcare centre – I know it's not particularly with this one but there's going to be a lot of increased traffic from that area. The streets are already quite narrow and this is – this'll be amplified if cars are parked on either side of the road. Antoine Street is already a busy thoroughfare with trucks and cars using it to get down to the industrial state and also Rydalmere wharf and, you know, to be honest, there's – I'm amazed there hasn't
35 been any major accidents along there because cars just hoon down there, so. Our driveway is only approximately 15 metres from the intersection with Antoine Street and is – the main basement for where the proposal development is only going to be 20 metres from our driveway and there's parking on either side of the road.

40 So getting in and out – in and out of our house is going to be very – increasingly difficult and I think actually quite dangerous. We already experience with cars parked on the other side of the road – it's quite hard to get out of it. If we have to back out of our house, it's actually quite hard, so. Parking for the residents in this particular development we think is basically inadequate. A two storey elevated car
45 park is just – it's not going to work. It won't work. People will park on the street, which just means extra parking and parking's going to be at a premium anyway. So it's just going to be more congestion on the streets.

MR O'CONNOR: If you could wrap up now, please.

MR COOPER: Yes, yes. So in conclusion, basically, while we understand the – is
5 undergoing change and many older properties being knocked down and rebuilt, this
development just has no – is just out of character for the whole area. We simply
don't agree with it. It's not in keeping with the landscape, with the streetscape and
the immediate area problems of traffic and congestion and it'll just create more noise
as well, especially that communal area, which we just don't think is any necessity for
it to be included in any of this development application at all.

10 MR O'CONNOR: Okay. Just stay there in case there's any questions.

MR COOPER: Yes.

15 MR O'CONNOR: Any - - -

MR McLEAN: Sorry, just to clarify, you're number 91?

MR COOPER: No, we're number 4 Nowill Street.
20

MR McLEAN: All right, sure.

MR COOPER: Yes.

25 MR O'CONNOR: Bob, you got any questions.

MR HUSSEY: No.

MR O'CONNOR: Just want to ask if you're aware that the site actually has a
30 different zoning to the R2 zone, which predominates in the area, it's got a B1
neighbourhood zone.

MR COOPER: Yes, we are aware. Yes.

35 MR O'CONNOR: Okay, that's fine.

MR FLETCHER: Different height and different FSR.

MR O'CONNOR: Yes, different controls.
40

MR COOPER: Yes, yes, we know. We know it has a different height but that
doesn't mean it has to go to that height.

MR O'CONNOR: Sure.
45

MR COOPER: If it's not in keeping with the landscape of the area, so.

MR O'CONNOR: Yes.

MR COOPER: Yes.

5 MR O'CONNOR: Okay. Thank you, David. Our next speaker is Troy Pearce.
Thank you, Troy.

MR PEARCE: Thank you, gents. If I follow the rules that you set out at the
beginning of the meeting and that is if someone before you has - - -

10 MR O'CONNOR: Beats you to the punch.

MR PEARCE: - - - beat me to the punch. All I will say, though, is that being in the
elevator game, working in the elevator game for the past 20 years, I can pretty much
15 guarantee the elevator they're going to put in will break down all the time. The
residents get – won't be happy. They will be parking in the street and it will just
make the street terrible, as was just previously discussed. So I just thought I'd throw
that in as well.

20 MR O'CONNOR: And where are you based?

MR PEARCE: 2 Nowill Street, so - - -

MR O'CONNOR: Right on the corner.
25

MR PEARCE: - - - directly across from it again, yes.

MR O'CONNOR: Yes.

30 MR PEARCE: Yes.

MR O'CONNOR: Yes.

MR PEARCE: I could just say everything that he said but you've got it all.
35

MR O'CONNOR: That's understood. Any questions?

MR McLEAN: No.

40 MR HUSSEY: No.

MR O'CONNOR: Okay. Thanks for your time, Troy. And Suzie. She won't be
calling. Okay. That deals with the – all the people who have requested permission
to speak. I don't think there's any questions arising out of that back to the
45 proponent. Okay. Again, we might take just a brief recess to consider this.

MR HUSSEY: I did have a couple of questions - - -

MR O'CONNOR: Sure, by all means.

MR HUSSEY: - - - at the right time, I wanted to clarify. You've got six units there and one of the requirements is to provide community open space. The community
5 open space is put on the back corner. The design - - -

MR O'CONNOR: Review panel.

MR HUSSEY: - - - review panel said the landscape near the rear setback is minimal
10 and should be enhanced and that seems to have resulted in a large tree being planted there. It seems to be on the southern elevation. It would seem to me to have little prospects of reaching maturity and it seems to interfere with a poorly-located piece of open space that would be cold and have poor amenity. It's complemented, I know, by community open space on the roof. That looks fairly basic and I don't find
15 that very inviting or attractive at all. I think the application is deficient in the provision of a reasonable level of amenity for community open space. It provides the location and the general layout. So is there any response to that?

MR: So in terms of the character of the site, we're working with a site that's
20 really constrained in terms of the lot size and also its orientation and we believe that the proposal as it currently stands is a very good response in terms of amenity. I do take your point that there is a issue. However, we've received compliance in terms of the energy – the 50 – almost all the 100 per cent of the communal open space located at the roof receives sufficient solar access. That's why we put that in
25 the council's report.

So in that sense, we do take the amenity solar access and privacy requirements from adjoining neighbours as well. So the DA – and it's actually pointed out to say that they needed some sort of a shade to make the space more useable, which was
30 incorporated into the design and we also made elements on the parapet wall, which included some planting which would be some sort of drought-resistant plants. So that was the intention behind locating the communal open space at that location.

MR HUSSEY: For the location, it seems to have not a very attractive level of
35 amenity.

MR EL-SABBAGH: So can I add onto that. When we discussed this with the design review panel, there was a total understanding that there needs to be a split in the communal open space. So that split provides the opportunity for the occupants of the site to either use the shaded area in summer or in winter they can use that rooftop that's been provided. So in order to enhance that as well, there was – and there was
40 some substantial changes made. If we go to – I can take you to ground floor plan. You see there is actually a planter box and that's a reinstated landscape area provided in that setback. That's both providing amenity to – as you enter the property, you
45 have some sort of landscaping.

Although it's not used for communal open space but there is that planter box that was recommended by design review panel to be there, to create not only a green space that if you are looking from your units, there are some trees and that planter box has been specced in a way to be able to handle the tree depth proposed. So the trees
5 actually can grow quite mature. So the statement was that, yes, there were some comments made in regards to the landscaping that was proposed but that was integrated with the latest design that we actually submitted to the panel. And then the panel actually endorsed that design and there was a further endorsement by the city architect to this design.

10

Now, in regards to the orientation. So from an architectural point of view, having this site orientated north to the front, it makes total sense to actually have that communal open space – total required communal open space at the front of the site. But what that then provides is a poor urban outcome to the next-door neighbours.

15

We totally overshadow the next-door neighbours. So again with discussion with the panel, four architects – the city architect and the landscape architect on the panel – there was an understanding that that's provided an area, although it's not going to be the best area in winter but it serves a purpose in summer and it gives the occupants that opportunity to have a space that they can use all year round. So it's that
20 opportunity.

20

I know it's a small development as such but it's boutique in its own way and it provides that opportunity. So it doesn't – we haven't provided total requirement of the communal open space on the southern side and not receiving no sunlight at all.
25 Our initial proposal was that be fenced landscaping with no access whatsoever to it. But it was discussed – better have some sort of access than no access, so that way it's not only left alone, there's actually some activation of that space and reorientated the stairs from the basement to force people to go through that space. So it eliminates anyone hanging out and doing the wrong thing in that space.

30

MR O'CONNOR: You happy with that response, Ron?

MR HUSSEY: I've heard it.

35

MR O'CONNOR: Okay.

MR COOPER: Could I just ask a question. With that communal area, all right, it's just going to be a magnet for noise at night. Is there any – is there any restrictions around the usage of that communal space that can be – we don't believe it should be
40 there at all because it's just basically – it's just – they can see into anyone's yard within a 50 metre radius from where - - -

40

MR O'CONNOR: We've noted that concern, yes.

45

MR COOPER: And so but our concern is – like, my wife's a shift worker. So she's got to work – sleep during the day and there's going to be noise and there's going to

be more noise and there's going to be noise from – at night, if they start having, you know, all night – not all night parties but, you know, there's - - -

5 MR: Are there going to be guidelines in terms

MR COOPER: Are there guidelines around the use of that communal area or – because we don't want – we don't want to be getting every weekend, you know, 11 or 12 o'clock at night and there are people partying and carrying on and, you know, people looking into our yard and throwing stuff because it happens, so.

10 MR O'CONNOR: We note your concerns. We'll look at that.

MR EL-SABBAGH: Can we suggest something.

15 MR O'CONNOR: By all means.

MR EL-SABBAGH: We're happy for council to condition limitation of access to that area. That's on top of being a strata development that will be

20 MR O'CONNOR: Body corporate.

MR EL-SABBAGH: - - - that would actually limit the use of that space. But for the sake of the objector's - - -

25 MR PEARCE: May I ask how you would do that? What, lock doors or just put a sign up?

MR: What would the conditions be? So we know.

30 MR: So the condition can be dictated by council in terms of its use, which will be a conditions during operation of the development. In addition to that, there'll be

MR FLETCHER: The condition could require it by law to that effect.

35 MR: Yes.

MR O'CONNOR: We will now adjourn and come back soon with a decision.

40 MR: Thank you.

ADJOURNED [5.41 pm]

45 **RESUMED** [5.57 pm]

MR O'CONNOR: Well, thank you again for your patience. The panel has considered the reports and the various submissions which have been put to us. The panel is comfortable in granting development consent to this project. We have one additional condition which we wish to attach, but, firstly, in terms of the
5 recommendation on page 282 – the very part of the recommendation is that the Parramatta Local Planning Panel – we'd like to change the word "support" to "approves the variation". So if Council staff can just note that is "approves the variation to clause 4.3 – height of building of Parramatta Local Environmental Planning 2011 under the provisions of clause 4.6".

10 The second and third condition, which are both shown as B, but one should be B and one should be C, are also endorsed for the reasons outlined at the bottom of page 281. The one change to the conditions in attachment 1 will be to add a new condition, being condition 1A. So it will follow condition 1. And that condition will
15 state that the planter box on the southern side of the rooftop communal open space area is to be widened to restrict overlooking of the neighbouring properties.

So, with that one additional condition and that slight change to the wording of the 4.6 clause variation, that project is approved by the panel unanimously. That then brings
20 us to item 5.5, which is a development application to convert a commercial building from a – sorry, to a laundromat. It's referred to the panel because the applicant is a councillor. The panel has looked at the site. We've reviewed the report, and we're comfortable with the recommendation which is put forward by the staff, and there are no changes to that recommendation. So that application – if I can just find the
25 right page number.

MR FLETCHER: It's on page - - -

30 MR O'CONNOR: Yes.

MR FLETCHER: - - - 585.

MR FLETCHER: 585. The recommendation – yes – is adopted for the reasons outlined directly under that recommendation, so no changes at all. So that concludes
35 the five development applications we had before us this afternoon. We now come to a draft planning proposal, and we understand the proponent is here to brief us.

MR BURNS: The planner, I'm sorry, yes.

40 MR O'CONNOR: The planner.

MR BURNS: Yes.

MR O'CONNOR: Thank you. So if you would like to come forward, state your
45 name and - - -

MR BURNS: Sure.

MR O'CONNOR: - - - we'll get underway.

MR BURNS: Thanks, Mr Chair and panel members. My name's Adam Burns. I'm
5 a director of Think Planners. We were here a month or so ago in front of the other
local planning panel.

MR O'CONNOR: Yes.

MR BURNS: And the panel said that they would benefit from a little bit more
10 background information in terms of City Centre Strategic Planning Framework. Our
position is the same as last month, in which we – appreciative of the report prepared
by Council officers. We accept the recommendation, and that recommendation to
reduce the FSR from 13.5 down to 12. We understand the reasons behind that, and
we've, obviously, worked with Council through the process on this planning
15 proposal. I'm here to answer any questions that you may have about the proposal,
whether they be how it fits in broadly with the CBD planning framework or, indeed,
anything particular about the design evolution and where we're at. But we'd seek
your adoption of the recommendation this evening, please.

20 MR O'CONNOR: Okay. Are there any questions?

MR McLEAN: Shadowing.

MR BURNS: Shadowing. Yeah. Big question. Okay.
25

MR McLEAN: And how does that fit in with the CBD, et cetera, in terms of - - -

MR BURNS: Sure. So it's almost a little story in terms of what's happened
historically since 2013. I'll step through it fairly quickly, but the Council adopted a –
30 shall I call it a big city approach when it came to height and FSR in the city, and that
is a core of ten to one and a northern extension – southern extension of the city at six
to one and remove height controls, and take that out to the edge and get what I call a
big city. You bring up a hard up – edge up to your two boundaries of the city.
That's been tested through a series of studies, generally driven from a heritage
35 perspective rather than a shadowing perspective.

The shadowing is really related to heritage items such as Experiment Farm,
Hambledon Cottage and the like. So in terms of this – and so what's happened is a
subsequent study by Urbis said, "Well, we actually more support the bell curve
40 approach to the city". A subsequent study to that was by Hector Abrahams, which
reinforced the, sort of – take it to a hard edge boundary, and Council's adopted that,
and, more recently, the Department of Planning has issued its gateway on the basis of
that, but it did its own heritage study – again, not a shadowing study, although those
things intersect.

45

So where we're at in terms of our particular site and shadowing is really a question
around two questions: do we harm or affect any heritage items? And the answer to

that is, in terms of items such as Hambledon Cottage and Experiment Farm, the clear answer is no. The shadow does not extend that way. The next question, then, is Robin Thomas Reserve; is that important? And in the recent gateway issued by the Department in December, it commissioned Council to say – to Council to say,
5 “Look, we want you, Council, to have a look at the cumulative impact of shadows on any of these open spaces that surround the CBD, one of those being Robin Thomas Reserve.

10 It’s important to note that the mantra of the tall, slender towers is all about getting a fast moving, skinner sort of shadow that moves across the Earth, and there’s also a recently adopted masterplan for Robin Thomas Reserve. That must’ve been August last year. It was adopted by Council. It proposes a whole series of thing, including introduction of café spaces, greater hard stand areas and, yes, our shadow will still
15 move across this area. It may well be – sorry, our site’s in the vicinity here. It may well be that these fields may become synthetic grass in the future, but at no point has there ever been a suggestion that our shadow will have a significantly detrimental impact on the ability for that area to be maintained as a playing surface.

20 And, finally, I think the recommendation before you is, “Well, the Department’s asked the Council to just double-check all of these”, and we’re not going to be immune to that. We’re saying, well, we’re consistent with the City Centre Framework at 12 to one. Please push us on, and we’ll still be tested – our shadows will still be tested as part of the broader analysis that the Council’s undertaking. That all right?

25 MR CARLE: If I can - - -

MR BURNS: Yes, sorry.

30 MR CARLE: - - - add a couple of points just in terms of the synthetic field. So that’s likely, given the growth in residential development, the demand on open space and so forth. So I think when – discussed we had with Council, that point was made. So when they resolved ten to one as part of the CBD they understood that there
35 would be an overshadowing impact on Robin Thomas Reserve, and they also understood that there was a likelihood that it would move to synthetic turf, so I just wanted to add that.

MR BURNS: Thanks, yes.

40 MR O’CONNOR: Just a question – is Robin Thomas Reserve – is it – got any heritage status?

MR CARLE: No. It’s not a heritage conservation area.

45 MR BURNS: That’s correct.

MR CARLE: Experiment Farm, which is to the south, is a listed item.

MR O'CONNOR: But this is just a playing field, with no - - -

MR CARLE: Yes.

5 MR O'CONNOR: - - - special heritage significance?

MR CARLE: No. The other – I guess I'll just clarify, just in terms of the FSR on the neighbouring site – so this plan proposal seeks an FSR of – a mapped FSR of ten to one, which bonuses. The adjoining site, which is the Cumberland Industries
10 site – so Council has resolved ten to one for that site as part of the CBD planning proposal. There was a historical site-specific planning proposal which predated the CBD planning proposal, and I think that got up to seven to one or eight to one, but with the CBD planning proposal and, sort of, the big city approach that Adam's spoken about, the current position for that adjoining site in ten to one. So - - -

15

MR O'CONNOR: And does that include the bonuses – the ten to one?

MR CARLE: That's mapped, so excluding bonuses.

20 MR O'CONNOR: So it could also climb to 12 to one.

MR CARLE: Yes.

MR O'CONNOR: So consistent with what's proposed on - - -

25

MR CARLE: Yes.

MR O'CONNOR: - - - this site.

30 MR CARLE: That's right. Yes. Just, also, the other point – just in terms of – so the assessment of overshadowing impact as part of the CBD planning proposal. So there's no – in the Council's planning controls, there's no generic criteria for overshadowing of open space, so outside the CBD there's no criteria – hard and fast criteria that really apply to open spaces. So it terms to be on a case by basis. There
35 are some open spaces in the CBD where the control is – so on the 21st of June 50 per cent of the open space receives sunlight between the hours of – I can't remember what it was – I think between 12 and 2.

40 There is an overshadowing map in the planning proposal which shows the shadow at, I think, 12 o'clock and 1 o'clock for the scheme, which is 13.1 to one, and when you eyeball it – eyeball it – those, sort of, overshadowing maps, it looks like – just based on, sort of, eyeballing, that at least 50 per cent of the site receives sunlight between those hours. And just bearing in mind that the Council staff have reduced the FSR due to, sort of design and so forth, so the expectation – or the possibility is that
45 through that further testing, I guess one of the benchmarks that could be applied is whether 50 per cent receives sunlight between those hours. I acknowledge that's, kind of, speculative, so that testing is, kind of, underway at the moment as part of the

CBD planning proposal. But, if that were to be applied, it may not reduce the height. If another criteria is applied, then it may reduce the height.

5 MR O'CONNOR: So can I just ask what - - -

MR FLETCHER: Therein lies the problem.

MR O'CONNOR: - - - hours again? Did you say - - -

10 MR FLETCHER: It's lunchtime: 12 to 2.

MR CARLE: Yes, between - - -

15 MR O'CONNOR: That's - - -

MR CARLE: - - - 12 and 2.

MR FLETCHER: Lunchtime. Because it's a lunchtime, sort of - - -

20 MR CARLE: 12 pm and 2 pm.

MR FLETCHER: - - - open thing, whereas this - - -

25 MR O'CONNOR: Right.

MR FLETCHER: - - - is different.

MR BURNS: But that doesn't apply to Robin Thomas - - -

30 MR FLETCHER: No.

MR BURNS: - - - but does apply to other - - -

35 MR O'CONNOR: Yes.

MR CARLE: Yes. They - - -

MR O'CONNOR: Yeah, I understand it doesn't apply - - -

40 MR CARLE: They tend to be important - - -

MR O'CONNOR: - - - strictly, but - - -

45 MR FLETCHER: Yes.

MR O'CONNOR: - - - it's a - - -

MR CARLE: - - - public spaces - - -

MR FLETCHER: Yes.

5 MR CARLE: - - - which are not synthetic and, you know, probably get lunchtime workers and et cetera, et cetera.

10 MR FLETCHER: Probably hard surface, but – yeah. Could I just clarify something you said, because you said the Robin Thomas Reserve isn't heritage listed. Page 660 says quite clearly, "The site's across the road from Robin Thomas, which is listed on the state heritage register as an ancient Aboriginal and early colonial landscape, and listed on the Council LEP" - - -

15 MR CARLE: Yes, so - - -

MR FLETCHER: - - - "as local heritage significance as an archaeological site". So - - -

20 MR CARLE: Yes. I apologise. So it's a listed item, but it's not in a conservation area.

MR FLETCHER: Yes, but it's a listed item. That's more significant than a - - -

25 MR CARLE: Yes.

MR FLETCHER: - - - conservation area.

MR CARLE: Yes. Yes.

30 MR FLETCHER: And one wonders what effect overshadowing of a – particularly of a, you know, archeologic – it probably doesn't matter, but in terms of the Aboriginal landscape, it's probably quite significant, I would've thought.

35 MR BURNS: So could I - - -

MR FLETCHER: So - - -

MR BURNS: Could I make a comment? Is that - - -

40 MR FLETCHER: Well, I'm going to - - -

MR BURNS: Sorry.

45 MR FLETCHER: - - - ask you - - -

MR BURNS: Yes, yes.

MR FLETCHER: - - - a question - - -

MR BURNS: Okay. All right.

5 MR FLETCHER: - - - and that is what is the criteria that you, as a planner, believe
should be applied, because it seem to me we're being asked to – and so is the
Council, ultimately, if there's some recommendation to leave it to the staff to say
what's appropriate – what's the criteria that should be applied to that bit of public
10 setting a criteria against which all these proposals – not just theses, but, indeed, the
Council's own City Centre planning proposal is judged, and to defer that and, in
the meantime, allow, effectively, rezonings to proceed – significant increases in
height to proceed – just seems to meet it the wrong around, so - - -

15 MR BURNS: Sure.

MR FLETCHER: - - - what do you think the criteria should be - - -

MR BURNS: Yes.

20

MR FLETCHER: - - - and why should we - - -

MR BURNS: Yes.

25 MR FLETCHER: - - - pre-empt the Council's determination of that project?

MR BURNS: Sure. So – not in my view. There is no question in the mind of
Council. The Council's criteria is quite clear in its planning strategy. It's planning
strategy is, "You must amalgamate enough land to provide a tall, slender tower that
30 results in fast moving shadows". So that's, first of all, a big picture principle in
relation to the - - -

MR FLETCHER: Yes.

35 MR BURNS: - - - city, which, in turn, of course, as we all understand, gives lots of
space between buildings. And then next question is, "Have they established a criteria
for Robin Thomas Reserve?" No, they haven't. In fact, they've gone further than
that and set out a masterplan for that reserve, which incorporates increasing
hardscape, providing cafés, increasing tree planning – I know trees have different
40 shadows to buildings. I appreciate that. But also providing, potentially, synthetic
grass as a preference. That's been expressed by Council in Council laws.

So I don't think there's, kind of, a missing bit of information there. I think the only
bit of question that has arisen has only arisen in the last three months when the
45 Department issued on the 13th of December a very – a series of – a Gateway which
has a series of questions around height. So it says, "Hey, Council, what are you
doing about aeroplanes? What are you doing about the shadows that emerge, and

should we extend the don't overshadow Experiment Farm period to a bit longer in the day, and, while you're at it, can you also have a look at the cumulative impact of shadows across your adjoining areas". I think Council's made a very clear decision in terms of the strategic framework, and I don't think we're pushing against that. I
5 think we're entirely consistent with that.

There's a separate questions about what do I think about overshadowing heritage, and I went and asked the Department of Planning that very question three weeks ago, because I don't quite understand what heritage – what a shadow does to an item of
10 heritage. Heritage buildings aren't sentient. They don't feel a shadow. A heritage building in shadow or out of shadow is still a heritage building, and the Department
- - -

MR FLETCHER: This isn't - - -
15

MR BURNS: - - - their response to that - - -

MR FLETCHER: - - - a building. This is a place - - -

20 MR BURNS: Sorry, yes.

MR FLETCHER: Yes.

MR BURNS: Yes. Sorry. But – okay. Well, I'm happy to stop that conversation if
25 you – it's interesting, if you want me to tell you, but I don't think there's anything to wrestle, there, with Mr Fletcher in terms of Council's policy. I think that's very clear. I think we're consistent with it. There's been a question raised at the Gateway, as it always there's a series of questions – or usually occurs that there's a series of questions for investigate, but the Department still saw fit to issue its
30 Gateway and, really, back the policy of Council in doing that.

MR O'CONNOR: Okay. And further questions, then?

MR CARLE: Yes, sorry. The other point I'd make is the CBD Gateway
35 determination condition is in relation to height. So it's not in relation to the FSR.

MR FLETCHER: Sure, but it's the height that's the issue here.

MR CARLE: Yes.
40

MR FLETCHER: That was all.

MR CARLE: Yes.

45 MR O'CONNOR: Rob, do you - - -

MR HUSSEY: No.

MR O'CONNOR: - - - have any questions?

MR HUSSEY: No, I don't.

5 MR O'CONNOR: Okay. Again, I think we might recess and come back with our position. Thank you.

MR FLETCHER: In fact, do we announce our decision on this?

10 MR O'CONNOR: I think it would be fitting to do that, yes.

MR McLEAN: Yes. Yes.

15 **ADJOURNED** **[6.16 pm]**

RESUMED **[6.33 pm]**

20

MR O'CONNOR: Okay, thanks.

MR:

25 MR O'CONNOR: Thanks for that – staying to listen to our decision. We haven't adopted the recommendation that's been put forward by the staff. I'll read the recommendation that we will make to Council, so I'll do that fairly slow and, hopefully, that's fine. The panel has serious concerns regarding the potential shadowing impacts – potential - - -

30

MR FLETCHER: Why don't we read it out and then just - - -

MR O'CONNOR: Yes.

35 MR FLETCHER: - - - we can dictate it to them later.

MR O'CONNOR: From the - - -

MS: Yeah, if you want to read it out - - -

40

MR FLETCHER: Yeah

MR O'CONNOR: Okay.

45 MR FLETCHER: Yeah - - -

- MR O'CONNOR: From the proposed controls, particularly the cumulative impact with the adjoining proposal. The panel considers these concerns should be addressed prior to a decision being made on this planning proposal. In this circumstance, the panel recommends that the shadow diagrams be prepared so that a decision can be made by Council on what is an appropriate level of shadow impact. So we think we've really got to have – we think Council should have that information before they made a decision, rather than make a decision and then go and get that information to make some sort of assessment.
- 5
- 10 MR BURNS: So I know the horse has probably bolted. We'd be more than happy to provide that information to the panel it's self-evident, given the location of this site and the location of the adjoining four towers that the key issue with our site is not the other three towers - - -
- 15 MR O'CONNOR: That did seem - - -
- MR BURNS: If you'd like - - -
- MR FLETCHER: Adam, you can provide the shadow diagrams, I'm sure. In fact, to some extent, they're done. What you can't provide is the - - -
- 20
- MR O'CONNOR: The criteria - - -
- MR FLETCHER: - - - policy decision of the Council - - -
- 25
- MR O'CONNOR: - - - to measure - - -
- MR FLETCHER: - - - as to what's an acceptable level of overshadowing. That's the decision they have to make.
- 30
- MR HUSSEY: So if that - - -
- MR FLETCHER: And you say they've done it, but - - -
- 35
- MR HUSSEY: - - - recommendation - - -
- MR FLETCHER: - - - they'd have to do it. Yes.
- MR HUSSEY: If that goes to the Council, if you do that whenever the Council meeting is. Is that a month's time or something? If you have that information there - - -
- 40
- MR BURNS: Yes.
- 45
- MR HUSSEY: - - - and that's assessed, that decision could be made – that policy decision could be made.

MR BURNS: Yes.

MR O'CONNOR: And the Council may not take our advice.

5 MR BURNS: Yes, sure. I understood. Yes. We'll be flat out to try and - - -

MR O'CONNOR: Yes.

10 MR BURNS: - - - encourage them not to, but, of course, I'm just wondering out loud whether it's worth putting a sentence to that effect – that – I could leave it - - -

MR McLEAN: No, no.

15 MR BURNS: - - - at that. That's great. Thank you.

MR McLEAN: Thank you.

MR O'CONNOR: Okay.

20 MR FLETCHER: Thanks.

MR O'CONNOR: Thanks.

25 MR FLETCHER: Thanks, guys.

MR BURNS: Yes.

MATTER ADJOURNED at 6.36 pm INDEFINITELY