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CITY OF PARRAMATTA COUNCIL

RECORD OF MEETING

MR D. LLOYD QC (Chair), Presiding

**CITY OF PARRAMATTA, LOCAL PLANNING
PANEL – COUNCIL MEETING**

**RYDALMERE OPERATIONS CENTRE
316 VICTORIA RD, RYDALMERE NSW**

4.01 PM, TUESDAY, 12 NOVEMBER 2019

MR D. LLOYD QC: All right. It's 4 o'clock. I think I can formally declare this meeting of the Parramatta Local Planning Panel open. In doing so, on behalf of the council, I acknowledge the Burramattagal Clan of the Durag, the traditional landowners of Parramatta, and pay respects to the elders, both past and present.

5 Next, I must say that this public meeting will be recorded. The recording will be archived and available on the 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 that your presence may be recorded. The next item is apologies; there are none. Next is declarations of interest. We have each signed a declaration of interest
10 form to disclose the fact that we have no conflict of interest with any of the matters on the agenda.

When we commence these meetings, it's usual for us to introduce ourselves. I'm David Lloyd. In addition to chairing this panel, I also chair a number of other panels.
15 I'm a lawyer. I'm a QC. I'm a former judge of the Land and Environment Court. I'm a former Acting Judge of the – of the Supreme Court. And I'm currently a professor of law at Western Sydney University. Mr Hussey.

MR B. HUSSEY: I'm Bob Hussey, an engineer and planner, and former
20 commissioner of the Land and Environment Court.

MS D. SUTHERLAND: Deb Sutherland. Um, planner of 40-odd years, and, um, also on a number of other panels, and also – and the Northern District – the North Sydney North District panel as well.

25 MR H. COLLESS: My name's Hugh Colless. I'm a community representative, and I'm also a New South Wales registered architect.

MR LLOYD: All right. That's us. So we can move straight on to the first item in
30 the agenda, item 5.1. This is the, ah, proposed, ah, demolition of a – of a garage and carport and retaining wall, and construction of a new garage and carport at 1 Summers Street, Dundas Valley. Ah, the only reason it's been referred to the panel is because the applicant and owner is a relative of a councilman, so it has to go to an independent panel. Ah, the panel inspected the site of this proposal earlier in the
35 day, as we did with each of these applications, and we are happy to adopt the recommendation to approve the development. Ah, there is one additional condition that the panel will impose in addition to the recommended conditions. Mr Hussey will read out the amended condition or the additional condition.

40 MR HUSSEY: It's a relatively long combined garage and carport, ah, and it has a blank walls along the adjoining northern wall. And we think the extra condition should be a detailed landscaping plan shall be submitted for council's approval. Ah, such plan shall provide appropriate screening of the northern wall of the carport slash garage. And that should come in prior to the issue of a CC. Ah, another associated
45 condition, a second one, is the colour of the corrugated wall cladding - - -

MR LLOYD: Wait a minute. Wait a minute. Wait a minute. Let her catch up.

MS SUTHERLAND: That's prior to the - - -

5 MS C. STEPHENS: We'll fix it up. In – in – in the wash. It will get fixed up in the wash.

MR LLOYD: Yeah.

10 MS STEPHENS: Don't worry.

MR LLOYD: All right. Keep going.

15 MR HUSSEY: So corrugated wall cladding shall be muted to match the colour of the existing dwelling.

MS S. AHMED: I will

20 MR LLOYD: Because this is a formal decision, we have to get this right.

MS SUTHERLAND: When – when that's got to be permitted, when it's - - -

25 MR HUSSEY: Furthermore, the colour of the corrugated wall cladding shall be muted to match - - -

MS SUTHERLAND: Muted.

MR HUSSEY: - - - the colour of the – of existing - - -

30 MS SUTHERLAND: Muted.

MR LLOYD: Muted.

35 MS SUTHERLAND: M-u-t - - -

MR LLOYD: M-u-t-e-d.

MS SUTHERLAND: To match.

40 MR LLOYD: To match.

MR HUSSEY: The existing wall colour of the house.

45 MS STEPHENS: Just

MS SUTHERLAND: And we need to put when that's happening.

MR HUSSEY: Yeah, well, they're - - -

MS SUTHERLAND: Submitted, occupation – sorry, construction.

5 MR HUSSEY: And they fit in under the section prior to the issue of the construction certificate.

MR LLOYD: Correct?

10 MR HUSSEY: Yes.

MS AHMED: Are we happy with that?

MR LLOYD: We have to give reasons for decision.
15

MS AHMED: You sure do.

MR LLOYD: So – so add reasons for decision.

20 MS AHMED: Should be

MR LLOYD: The panel supports the findings in the – in the assessment report. That's 1. Number 2, the development is permissible in the R2 low density residential zone, and satisfies the requirements of the applicable planning controls. 3, the
25 development will involve the removal of a dilapidated and unsafe existing structure.

MS AHMED:

MR LLOYD: Of a dilapidated and unsafe - - -
30

MS SUTHERLAND: Unsafe.

MR LLOYD: - - - existing structure. Next, the development will be compatible with the existing character of the area.
35

MS AHMED: With the existing - - -

MR LLOYD: With the existing character of the area. Next, for the reasons given above, approval of the application is in the public interest. Do the panel wish to –
40 does anyone wish to add to those reasons?

MS SUTHERLAND: No.

MR LLOYD: All right. The decision of the panel is unanimous, am I correct? So
45 because it's unanimous, we don't have to vote. All right. So we can move on to item number 2. Item number 2 is the proposed modification of an approved development at 45 George Street, Clyde to remove condition number 2, which refers

to a two-year operational trial period. The panel is prepared to modify the existing consent by removing condition 2. Ah, the two-year operational trial period has expired without incident. So we adopt the recommendation as in the assessment report, and we have to add reasons for decision. Reason 1, the panel supports the findings contained in the assessment report and endorses the reasons contained in that report. 2, proposed modification is consistent with the objectives of the IN1 general industrial zone.

5
10 MS W. WANG: I-N - - -

MR LLOYD: With the IN1 - - -

MS SUTHERLAND: I-N.

15 MR LLOYD: - - - general industrial zone.

MS SUTHERLAND: Number 1.

MR LLOYD: General indust – general industrial zone. And 3, for the reasons given above, the modification is in the public interest.

MS SUTHERLAND: Modification.

MR LLOYD: The – the modification is in the public interest. And if you go back to the recommendation, there is a – an error in the second line. In the second line, there's a reference – third line – there's a reference to section 4.16. That should read section 4.56, because - - -

MS WANG: Of course, yes.

MR LLOYD: - - - that is the section under which the – the panel is - - -

MS SUTHERLAND: Yes.

MR LLOYD: - - - exercising the powers. So have you changed that?

MS AHMED: Yes, I have.

MR LLOYD: Thank you.

MS WANG: Decision of the panel is unanimous?

MR LLOYD: Unanimous again. All right. We can now move to item 5.3. This is the development at 125 to 129 Arthur Street, Parramatta. Ah, we have no one registered to speak in that matter. If no one wishes to speak, we can indicate what our decision is. No one wishes to speak? All right. The – this is an application to vary the height control to allow an additional two storeys to, ah, an approved

residential flat building so as to add a further 10 units and the provision of a rooftop common open space.

5 The panel is not prepared to vary the height control at all. Ah, we reject the application under clause 4.6 to vary the height control. Ah, to vary a height control, an applicant has to demonstrate that the proposed development, ah, will be, ah, a better development than a compliant development, and the applicant has been unable to do so in this instance. The, ah, recommendation in the assessment report is to approve for the reasons – various reasons set out. The panel is prepared to add an
10 additional reason, which is as follows - - -

MS SUTHERLAND: To refuse. You said approve. To refuse.

15 MR LLOYD: To refuse, I should say. To refuse. There – there is an additional reason – the – the panel supports the finding contained in this report and endorses the reasons for the – so there is an additional ground of refusal, and I will quote:

It is not in the public interest to increase the number of occupants on land which is subject to major high-hazard flooding.

20

MS AHMED: Something flooding?

MR LLOYD: Land that is - - -

25 MS SUTHERLAND: High-hazard.

MS STEPHENS: High-hazard.

30 MS AHMED: High-hazard.

MS STEPHENS: Yeah.

MR LLOYD: High-hazard flooding

35 MS SUTHERLAND: High-hazard flooding.

MR LLOYD: Flooding.

40 MS AHMED: Sorry,

MR LLOYD: Correct, panel? Is the panel all in agreement?

MS SUTHERLAND: Yes.

45 MR LLOYD: And again, that decision is unanimous. We don't have to vote in that instance. So that is the determination of the panel. All right. So we can move on to item 5.4, which is a proposed child care centre at 65 Boronia Avenue, Epping. As I

said, the panel inspected the site of this development earlier in the day, and we are familiar with what is proposed. We have notice of a number of people who wish to speak on that matter, and I will call each of you in turn and remind you that you have precisely three minutes to make your points. When you come to speak, please take a seat over there in front of the microphone; otherwise you won't be recorded. So the first person I have noted here is Fiona McKenzie. Good. Just take a seat there. And, for the record, your name and address.

10 MS MCKENZIE: Fiona McKenzie, 26 Lewis Street, Epping.

MR LLOYD: 26 - - -

MS MCKENZIE: 26 Lewis Street.

15 MR LLOYD: Where is that?

MS MCKENZIE: Directly behind 65 Boronia.

MR LLOYD: Okay. Proceed. Your three minutes starts now.

20 MS MCKENZIE: Thank you. My name is Fiona McKenzie, and my husband Alex and I own 26 Lewis Street directly behind 65 Boronia Ave. We are a young family with two little girls aged one and three and we love our home and our garden. This DA include a drainage easement through the full length of our property, which we have not consented to. The applicant's threat to us to court under section 88K to seek an easement our property seems to be heavily skewed in favour of the developer who will be running a commercially operated money-making business at the expense of our family. To this day, we have not had one single conversation with the applicant about their proposal for a commercially operated childcare centre.

30 In early 2017 the applicant approached us seeking a 60 centimetre wide easement to enable them to submit a DA to build a detached dual-occupancy houses. It was not for a 1 metre wide easement for the purpose of enabling a childcare business. We and our neighbours at number 24 received letters from the applicant's solicitor demanding that we consent to an easement. We had our own solicitor respond to that letter advising that we would not consent. In that letter we also suggested some drainage alternatives, one of which is relevant to their current proposal. They could approach their neighbours from lot 2 to lot 8 on Boronia Ave, noting that the applicant's house is lot 1, to connect up with an existing drainage easement further down the street at the rear of lot 9 and 10.

45 We're opposed to an easement through our property because it would mean destroying our established garden, including the removal of at least two mature trees and 28 hedge trees. The easement would also impact the tree protection zone of four other large trees. The developer has no authority to request a tree be removed from a privately owned adjoining property, nor has the council the authority to even consider such an action unless the property is included as part of the DA, which it is

not. The council's report also state that an easement through our property is critical to the stormwater disposal of the site, which means there must be no alternative path to drain the water, but that is simply not true.

5 We have consulted with a stormwater engineer who advised there are a number of options that do not require any easements, including move the OSD to the north-west or south-west corner of the property and drain directly to Boronia Ave, install an above-ground OSD and drain directly to Boronia Ave, or install a rooftop OSD and drain directly to Boronia Ave or Ryde Street. These options would not
10 cause any disruption to neighbours. Also, the required 1 metre for an easement is physically impossible, because part of our house falls within that footprint, as do our gas and communication services, hot water system, garden irrigation system and garden lighting system.

15 In order for the panel to approve the DA, it should be 100 per cent certain that conditions in schedule 1 can be satisfied. We strongly believe that the panel cannot be certain on this matter, and there is no guarantee that, considering the circumstances, an easement will actually be granted by the court under the section 88K or that it is even physically possible. I would also like to note that should the
20 applicant choose a stormwater disposal system that does not require an easement through our or our next door neighbour's property, we would not oppose this development.

MR LLOYD: That's your three minutes.

25 MS MCKENZIE: With these points in mind, I strongly urge the panel to refuse this application.

MR LLOYD: All right. Would you just come forward, please. Which is your
30 house?

MS MCKENZIE: Upside-down – we're just 65. That's 65, and that's us.

MR LLOYD: This is the subject site?

35 MS MCKENZIE: Yes, and that's us here.

MR LLOYD: That's you there?

40 MS MCKENZIE: That's me there, yes.

MR LLOYD: All right. Thank you. Mr Roma? Is Mr Roma here? No. Mr Wu? Again, for the record, your name and address, please.

45 MR WU: Thomas Wu, 55 Boronia Avenue, Epping.

MR LLOYD: 55. Yes.

MR WU: Yes.

MR LLOYD: Yes. I have got you.

5 MR WU: Yes.

MR LLOYD: All right. Proceed.

10 MR WU: I think when I reviewed additional plans, which are supplied by applicants, and I have a few concerns on safety of the children when they're operating the childcare centres and also the construction-wise. On the floor plans, which indicate they will have a sleeping – children's sleeping room on first floor, and they have only one access point, which is only one stairs from level 1 to access the ground floor, so any fire hazard or any fire gets on – there's no place for children or
15 staff to evacuate safely from first floor.

Second of all, also, on the reviews of council officers – indicate the reduction of children of 33 – require eight parking spaces and – proposal compliance – the estimated traffic generates from the development is considered to be acceptable to
20 local road, and it's not expected to cause unacceptable impact on the operation of Boronia Avenue and the surrounding road network. But I need to point out that the council members and that panel – that we are not talking about traffic operations on Boronia Avenue and the surrounding road network. We are talking about dramatic increase of children and families access on the corners and roundabouts and –
25 involved with public transport – buses and traffics increase – increase accidents and harm of children.

So I'm a childcare provider. The safety of children is the first point. I always tell my staff that when you design your operation and your plans, you need to consider
30 the safety of children, but from the construction plan which they supplied, I don't see – there's lots of hazards in there, but they might be meeting the standards of local council DCPs or minimal requirements of the State's DCPs, but they are – not consider the safety of children. They're putting a sleep room on first floor that's – and only provide one stairs for access from the ground floor to the first floor, and
35 there's no fire stairs – supply on this plan. It's – I think it's increase of danger and, in fact, safety of children. That's all my point.

MR LLOYD: Before you got I will ask the panel – any questions?

40 MS SUTHERLAND: So do you run the other - - -

MR WU: Yes.

45 MS SUTHERLAND: - - - childcare centre in Boronia?

MR WU: Yes, I do.

MS SUTHERLAND: Okay – just down the road?

MR WU: Yes.

5 MS SUTHERLAND: Yes.

MR LLOYD: How many children do you have?

MR WU: 34.

10

MS SUTHERLAND: Right. How many parking spaces do you have?

MR WU: We have – because our building is purpose-built in 1984.

15 MS SUTHERLAND: Yes, it's older.

MR WU: We have – yes. We have – on the side we have – one, two, three, four – five parking spaces.

20 MR LLOYD: Five for - - -

MR WU: 34 kids.

MR LLOYD: Yes, plus how many staff?

25

MR WU: We have eight staff.

MR LLOYD: And how many parking spaces for staff?

30 MR WU: Two.

MR LLOYD: Two. Yes. Thank you. Any other questions, panel? No. Thank you.

35 MR WU: Thank you.

MR LLOYD: Mr Simmonds. Name and address, please?

MR SIMMONDS: Yes. Derek Simmonds, and I live at 1 Duncan Place, Epping.

40

MR LLOYD: One - - -

MR SIMMONDS: 1 Duncan Place - - -

45 MR LLOYD: Duncan Place.

MR SIMMONDS: - - - Epping.

MR LLOYD: Well, Duncan Place – where is Duncan Place?

MR SIMMONDS: It's on the western side of Epping in towards the centre of Epping.

5

MS SUTHERLAND: All right. So not in the immediate - - -

MR SIMMONDS: No, no, it's – well, it's about 750 metres from - - -

10 MR LLOYD: Okay.

MR SIMMONDS: - - - this development.

MS SUTHERLAND: Okay.

15

MR LLOYD: Yes, all right.

MR SIMMONDS: Very – relatively close, yes.

20 MR LLOYD: Thank you.

MR SIMMONDS: I'm here as a disgruntled Epping resident rather than a neighbour – rather than a direct neighbour.

25 MR LLOYD: All right. You proceed.

MR SIMMONDS: Thank you. Thank you. Yes, look, I want to address the question of public interest. I strongly disagree with the assessment report that the application is in the public interest. Like many members of the community, my wife and I are sick and tired of being told by council that a development is in the public interest, despite numerous valid and strong objections from the public. The whole question of public interest and so-called community consultation is in question with this development. If this DA is approved after valid objections by the public, it will be clear that community consultation is a farce. In this case of a DA application to build business premises in a residential neighbourhood, is the council supporting the interests of business over the expressed objections of the local community and neighbourhood, as evidenced by 27 submissions, including a petition?

30

35

Should business interests take precedence over the rights of the public? The likely negative impacts on adjoining properties, as you heard from Ms McKenzie, are reminiscent of The Castle, the movie. Briefly, some of our objections include risks to the public, including pedestrians, especially children, attending the proposed childcare centre and children attending Epping West Primary School who walk by due to numerous traffic issues outlined in our written submission and raised a minute ago. This busy corner is very unsafe as a location for a childcare centre. Council needs to exercise due diligence in considering real risks of serious injury, loss of life and property damage – removal of approximately 14 of 17 trees on the site and, in

40

45

addition, a large number of hedge and mature trees if proposed easement through 26 Lewis Street were to go ahead.

In recent years, Epping, once a garden suburb, has seen large-scale tree removals.
5 The report states that creation of an easement to drain water 1 metre wide over the downstream property is critical to the stormwater proposal of the site. This opinion ignores other stormwater dispersal possibilities, including repositioning or enlarging retention tanks; pumping of retention tank stormwater overflow to Boronia Avenue; connection to an existing easement, which was referred to by Ms McKenzie; and a
10 roof retention tank. These four stormwater options have significantly less or no impact on adjoining properties and, therefore, are more in the public interest. Clearly, neither council nor the developer has considered these alternative options to the so-called critical assessment – easement - - -

15 MR LLOYD: That's your - - -

MR SIMMONDS: - - - sorry.

MR LLOYD: - - - three minutes, I'm afraid.
20

MR SIMMONDS: Finish on this – in conclusion, approval of this DA puts a proposed business development over the expressed objections of neighbours. If the DA is approved, it will make a good media story as an example of conflicts going on all over Sydney and as a human interest story. It's a David and Goliath story of Big
25 Brother council supporting business over the voice of locals in determining what is the public interest. Thank you.

MR LLOYD: All right. Rebecca Bailey, please. As before, for the record, your name and address.
30

MS BAILEY: Rebecca Bailey. I'm representing 55 Boronia Avenue, Epping.

MR LLOYD: 55.

35 MS BAILEY: Yes.

MR LLOYD: Yes.

MS SUTHERLAND: It's the childcare centre.
40

MS BAILEY: Yes, yes.

MR LLOYD: Yes. Proceed.

45 MS BAILEY: Okay. Sorry. I object to this DA due to the significant safety and quality concerns of the running of the service. Currently our centre, which is at close proximity, has a petition of 61 parents with young children opposing this DA. At the

time of signing, approximately 10 of our families were on the waiting list for extra days with us, but were still opposed to this DA, and this proposed service will be low quality, not meeting legal requirements and a detriment to the local community. I am here representing those 61 parents with young children who live or work in Epping.

5 Currently there are plans for the service to have 16 two to three-year-olds and 16 three to five. The minimum supervision for this number of children is five qualified staff.

10 I notice there has been an amendment, and now they have six staff at the centre. It is my professional opinion that it is still not viable to run a high-quality centre that meets children's educational and safety needs. The ratio must be met legally at all times. If a sixth staff member was employed, they would need to be in direct contact with children to cover tea breaks, lunch breaks and programming time, the upkeep of the service, such as cleaning, preparing food, and so forth. Even if food is brought in
15 externally, it will still need to be heated, served and cleaned up. This person would need to be on the floor, by my calculations, 27 hours per week just to cover breaks and programming, which are required by the child service award.

20 Once cleaning, meal prep and other incidentals are factored in, this sixth educator could not possibly be able to maintain policies, procedures, administration, parent tours and enquiries, legal reporting requirements, and maintain the quality improvement plan for this service, all of which are required in the childcare regulations. I am also concerned about how the rights of the child will be upheld and how positive relationships can be formed when I read:

25 *Crying children should be comforted as quickly as possible and moved indoors.*

30 Why does the service feel a child should be isolated away from their peers because they are upset? How would legal ratios be maintained if, for example, one three year old was insider with one educator and one educator is left outside with 15 other pre-schoolers. Would more children be forced inside because their peer is upset, or will safety and the national children regulations be compromised? This is also noted with the routines of rest times being so late in the day – 2 pm and 3 pm. The regulations state:

35 *Each individual child's need for rest and sleep should be catered for.*

40 Which, with the room upstairs – sleep room upstairs, it compromises supervision. Any parent or someone who's looked after children would know most children do not have a day sleep at 2 pm or 3 pm, but earlier. I feel this proposed will not meet the needs of the community and would not be run appropriately. I also – it will also meet the bare minimum of section 1.5.3 Best Practice Guidelines for council's child care DCP. I and the Epping community strongly this DA as we feel it is just money making and not caring about the children.

45 MR LLOYD: All right. Thank you.

MS SUTHERLAND: Thank you.

MR LLOYD: No. You've done well.

5 MS SUTHERLAND: You did it.

MR LLOYD: Yes. You did well. You fit it in with your three minutes comfortably. All right. Mr Moffat. Yes.

10 MR MOFFAT: My name is Mike Moffat and I live at 38 Victoria Street, Epping, and I represent Epping City Trust, who are a group that, ah, ah, wishes to improve the amenity of Epping as a place to live and work, of 450 members, incidentally.

MS AHMED: I apologise. I can't mute it.
15

MR LLOYD: Gremlins.

MS AHMED: Yes. Indeed.

20 MR LLOYD: All right. How many members of the Epping City Trust are there?

MR MOFFAT: Oh, there are around 450 members.

MR LLOYD: All right. Proceed.
25

MR MOFFAT: Mr Chairman and panel members, the trust recognises the need for child care centres but believe they should be in appropriate locations spread around and throughout the suburb. The trust continues to maintain that this proposed child care centre is in a very inappropriate location. Parramatta Council resolved in March
30 this year to write to the New South Wales Department of Planning seeking support to amend the SEPP (Educational Establishments and Child Care Facilities) 2017 to allow Council to put in place controls which would enable a sensible distribution of child care centres within any particular council area. This is a move strongly supported by the New South Wales Child Care Alliance, the peak body representing
35 the industry.

We think this development being decided today is a glaring example of poor location, it being 75 metres, or four houses away from an established and active child care centre, and with at least four other active child care centres nearby. We believe
40 the panel would be justified and doing the community a service if it were to refuse this application for this reason alone. We realise the provisions of SEPP provide a difficulty but we believe that reasons should be found to refuse the development consent, ah, since it is clearly not in the public interest to have child care centres clustered in one area.

45 We're also opposed to this development because the emergency evacuation area is quite unsafe. Bearing in mind that emergency evacuation procedures must be

practiced on a routine basis, we believe that some 32 children and perhaps six adults congregated on a nature strip of Ryde Street opposite Willoughby Street is a very unsafe situation. We notice that council have imposed a condition of consent to ensure that any evacuation plan is reviewed by the Department of Education prior to commencement of operations, but no safer alternative assembly locations have been suggested, and by then the whole facility will have been built and it will all be far too late.

We also – we are also opposed to this application because the play area is in a direct line with Willoughby Street, and with articulated buses and trucks turning onto Ryde Street, one only has to miss the turn and it is likely to end up in the children’s play area. We are also concerned about sight lines to the west when cars, perhaps over 30 per day – or per morning and evening, are leaving the centre up a steep drive onto Boronia Grove – ah, Boronia Avenue. We hope the panel will refuse this application.

MR LLOYD: Thank you for that. Yes. Thank you. Mr Morgan.

MR MORGAN: Ah, Before I begin, Michael Morgan is my name from 24 Lewis Street, Epping. I have some diagrams that may assist the panel in understanding comments that were made previously, a copy of the CRE from New South Wales Land Registry Service, which I’d be happy to show the panel to get a better understanding of the properties that we’re talking about.

MS SUTHERLAND: Is this the stormwater issue we’re talking about?

MR MORGAN: Stormwater issue, yes.

MS SUTHERLAND: Okay. That’d be good.

MR MORGAN: Would you like me to that first - - -

MR LLOYD: Yes.

MR MORGAN: - - - before I commence? Okay.

MR LLOYD: Do you have any other copies of this?

MR MORGAN: No. You can have that copy.

MR LLOYD: I’ll just have a look at this. There’s the subject site. That’s the proposed easement. Well, that’s a long one.

MR MORGAN: Ah, I – well, I also have copies of, um, SIX Maps site if you want a – a visual of what we’re talking about.

MR LLOYD: Let’s have a look at what you’ve got. How is that different from this?

MR MORGAN: Okay. So this is our site here. Boronia Avenue.

MR LLOYD: Yes. Yes.

5 MR MORGAN: And we're talking about difficult traffic moving in this direction and traffic coming out of the child care centre, so I just thought, um, there's some – quoted distances from that point - - -

MR LLOYD: Yes. All right.

10

MR MORGAN: - - - that are mentioned in the report. I also have another plan which I'm - - -

MR LLOYD: Oh, this is about the easement, is it?

15

MR MORGAN: This is about the, um, stormwater drainage and its ability to drain to Lewis Street, if that's appropriate to - - -

20 MS SUTHERLAND: So instead of going through there, are you suggesting it going right along here?

MR MORGAN: Correct.

25 MS SUTHERLAND: That's going to be in a whole lot more trees than – I mean, you mentioned trees. Have you seen how many would go with this one?

MR MORGAN: I – I – I haven't mentioned trees at all.

30 MS SUTHERLAND: No, no, no. Sorry. I'm looking at the lady over here. So I – bit of a rock and a hard place, I know. We've got to – may be a bit creative, but, um - - -

MR MORGAN: Well, let me find – I - - -

35 MR LLOYD: It – it – it will - - -

MR MORGAN: I may advise the panel that there's an existing drainage easement two-metres wide – sorry - - -

40 MS SUTHERLAND: Yeah. We see it.

MR MORGAN: - - - one-metre wide through those two properties.

MS SUTHERLAND: Yeah.

45

MR MORGAN: Where the subdivision was done in, um, 1916, of course, there was no need to create - - -

MS SUTHERLAND: That's it there.

MR MORGAN: - - - an easement, but if a subdivision is being done and that's what
5 would – would be asked for and it would prevent any of these properties at some
time I the future burdening any of these properties to get their water through.

MS SUTHERLAND: Yeah.

MR HUSSEY: Have you had a chance to look at the report and the draft
10 conditions?

MR MORGAN: Yes, I have.

MR HUSSEY: Do you understand what the deferred commencement condition - - -
15

MR MORGAN: Yes, I do.

MR HUSSEY: - - - intends?

20 MR MORGAN: Yes, I do.

MR HUSSEY: So it doesn't lock it into that easement. It says that before the
consent becomes operative they have to get a satisfactory easement, confirm the
creation of an easement to drain water over the downstream property, or properties in
25 Lewis Street. So if there are options, they've got to be explored and satisfied before
this consent - - -

MS SUTHERLAND: Yeah.

30 MR HUSSEY: - - - operates.

MR MORGAN: Yes. I – look, I agree. Maybe that wording should be Lewis Street
or – and Boronia Street.

35 MR HUSSEY: Well, that - - -

MS SUTHERLAND: Yes.

MR HUSSEY: - - - is for consideration.
40

MS SUTHERLAND: Yes.

MR HUSSEY: Yes.

45 MS SUTHERLAND: Yes.

MR MORGAN: That's another - - -

MS SUTHERLAND: We could add Boronia to that because these actually are Boronia properties. So Lewis – the – all these three options need to be looked at in more detail.

5 MR LLOYD: Well, the – the – the – the – the deferred commencement condition allows that.

MS SUTHERLAND: But does it say Boronia?

10 MR LLOYD: It – no, it doesn't say Boronia- It – it says:

Downstream property or properties benefiting the subject lot known as 65 Boronia Avenue.

15 So - - -

MS SUTHERLAND: Okay. Okay. So it could be any. Yeah.

MR LLOYD: It – it could be anything.

20

MS SUTHERLAND: It's open.

MR LLOYD: All right. Ah, your three minutes starts now.

25 MR MORGAN: Okay. Thanks. Good afternoon. My name's Michael Morgan. My wife Carol and I have resided at 24 Lewis Street for 42 years and share a common boundary with part of the northern boundary of the subject property. I'm a registered land surveyor and have worked in private practice for more than 40 years. We are opposed to the proposed development on this site based on the information
30 provided to us by Council. Our primary concern relates to traffic safety for vehicles entering and exiting the site and for vehicles heading south along Ryde Street and turning left into Boronia Avenue and then heading in an easterly direction.

I question the accuracy of the revised traffic and parking statement by Traffic
35 Solutions Pty Ltd which Council's traffic engineer appears to have relied on in forming his opinion, which is stated on page 274 of the business papers. In that statement the first table shows that the sight distance required for a vehicle travelling at 30 kilometres per hour is 25 metres, for a vehicle travelling at 40 kilometres an hour is 35 metres, and the distance is measured being 26 metres. I have, in fact,
40 measure that sight distance to be only 20 metres for vehicle rounding the corner and heading east, not 26 metres as stated. This is significantly less even than the 25 metres quoted for a vehicle travelling at only 30 kilometres per hour.

In addition, I've stood at the intersection during the morning peak period and have
45 observed numerous vehicles travelling, in my opinion, at approximately 35 to 40 kilometres per hour into the intersection. Also, no mention has been made in the statement about buses on route 550 which head easterly down Boronia Avenue every

10 minutes during the morning peak. I note, as well, Council's requirement on page 274 to provide a minimum 42-metre sight line, which is clearly not possible when assessed in the light of the distances I have mentioned above.

5 In my opinion, it is almost inevitable that an accident leading to serious injury or worse will occur when vehicles exit the property without having the minimum sight distance required by the standard. I would strongly recommend that a peer review be sought and obtained from a suitably qualified traffic engineer. I would also welcome a further site inspection being arranged by your panel at, say, 8 am on a weekday
10 with any and all interested parties attending if deemed appropriate. In my opinion, this application should be rejected on this safety issue along.

I am also greatly concerned about the proposed easement adjacent to our common boundary with 26 Lewis Street. I have recently examined the stormwater plan DO3
15 Revision C, and in the absence of – absence of an level for Pit 7 being shown on the plan, I have determined that water will then have to flow from that pit uphill to reach the nominated discharge point in Lewis Street, and that's shown on the diagram. As a registered surveyor, I'm of the opinion that the required width of one
20 metre from the boundary is not available due to the location of the existing structures in close proximity to the boundary, and in my opinion, ah, this should result in the application being refused on the aforesaid grounds. Thank you.

MR LLOYD: All right. Any questions, panel?

25 MS SUTHERLAND: Perhaps just quickly. How close is your house to that boundary? What's - - -

MS McKENZIE: within the metre. I mean, we haven't - - -

30 MS SUTHERLAND: It's less than a metre. So you wouldn't have the – they don't have the metre to get - - -

MS McKENZIE: They don't have the metre, no.

35 MR MORGAN: That's right. No.

MS McKENZIE: And then there's everything else inside - - -

MS SUTHERLAND: It looks like that – it's right on the boundary, then.

40

MS McKENZIE: - - - our hot water system, electricals, gas, communications. There's lots of stuff.

45 MR LLOYD: Right. Ms Lyn Chan. Lyn Chan here? No one? No? All right. Well, we'll hear from the applicant now.

MS SUTHERLAND: Oh, just in time.

MS McKENZIE: Just in time, Ms Chan.

MR LLOYD: Can you leave the door open behind you in case there's anyone else out there?

5

MS McKENZIE: I can indeed.

MR LLOYD: Come forward, please. Take a seat here. First of all, tell us your name and address.

10

MS CHAN: So Lyn Chan.

MR LLOYD: Where do you live?

15 MS CHAN: 38 Boronia Avenue, Epping.

MR LLOYD: 38?

MS CHAN: Mmm.

20

MR LLOYD: That's way down here. Ah - - -

MS SUTHERLAND: Where is it?

25 MR LLOYD: 38.

MS SUTHERLAND: Over here somewhere, is it? Ah, here. Sort of here.

MR LLOYD: Yes. It's down there.

30

MS SUTHERLAND: Yeah. Yep. Opposite and down the road.

MR LLOYD: Yeah. We're just looking at where you live.

35 MS CHAN: Oh. Okay.

MR LLOYD: You have three minutes starting now.

40 MS CHAN: Okay. So I, um, have serious concerns about the proposal and, um, I – I guess, object to it. Um, there are a number of reasons. Sorry, I haven't fully prepared for this. I just decided to come, like, about two hours ago. Um, but the main concerns I have is that that particular road is on the bus route. So there's buses coming around that corner between Ryde Road and Boronia Avenue, probably, in peak hour, every 15 minutes. Um, so it's a very high-traffic area, that turnoff, um, 45 which is where the child care centre is proposed to be built. Um, also on that particular corner, um, given the high traffic, um, it's also, I think, very unsafe for kids to be dropped off and picked up.

Secondly, there's already a childcare centre probably about three doors down that road on the same side of where the proposed childcare centre is – is, um, proposed to be built, and I sort of don't understand why, you know, in such close proximity - - -

5 MS STEPHENS: Sorry.

MS CHAN: - - - there's – there's – there should be another childcare centre. Thirdly, um, there's a school just down the road, Epping West Public School, um, where kids around the area, um, they walk to and from school, including my kids.
10 There's a lot of kids that cross Boronia Avenue, um, and walk down, um – basically, up Boronia Avenue, down Ryde Road, um, so I think it'd be very, very unsafe for kids to be walking to school, crossing that road whilst there's added traffic because of the childcare centre. And I don't know if you're aware, but there's a eye hospital that's, ah, been approved to go ahead, um, for construction – I don't know what the
15 timelines are – but, ah, just a couple of doors away from us. So as you can imagine, it'll be more traffic on that road because of this eye hospital as well. So there's a bus route. Kids going to and from school around that corner. There's a childcare centre on that road. Another childcare centre to be proposed.

20 Plus you've got a lot of traffic trying to cut through Carlingford Road from places like Pennant Hills, Carlingford, that area, trying to get to Epping Station. They're trying to cut through Boronia Avenue to avoid the traffic on Carlingford Road during peak hours, and already that's causing a lot of traffic as it is. So I'm just very concerned.

25 MR LLOYD: Any questions, panel?

MR COLLESS: Not from me.

30 MR HUSSEY: No.

MR LLOYD: All right. Thank you. All right. Now, we have three speakers on behalf of the applicant. Who wishes to go first?

35 MR G. CHAPMAN: Um, chairperson, I was wondering – I'm the town planner for the applicant, and the architect for the applicant. If we do a – um together, because we might be able to answer questions - - -

40 UNIDENTIFIED FEMALE: Sorry.

MR CHAPMAN: - - - crossover as opposed to - - -

MR LLOYD: Well, it's a matter for you, but you won't be recorded unless you take up a position next to that mic.

45 MR CHAPMAN: All right. Well, I'll go first, and then you can follow if, um - - -

MS STEPHENS: Well, you can sit there together. You just need to get another chair.

MS AHMED: Just pull up another chair, yeah.

5

MR CHAPMAN: Yeah.

MR LLOYD: All right. So who have we got here?

10 MR CHAPMAN: My name's Garry – is that on? My name's Garry Chapman. I'm the town planner for the applicant.

MR E. RAHMANI: Um, I'm Esan Rahmani. I'm the architect for this, ah – for this project.

15

MR LLOYD: You're Mr – what's your name again?

MR RAHMANI: Esan Rahmani.

20 MR LLOYD: Thank you. You're the architect.

MR RAHMANI: The architect.

MR LLOYD: All right.

25

MS SUTHERLAND: And Craig Hazell is not - - -

MR CHAPMAN: No.

30 MR LLOYD: Yeah.

MS SUTHERLAND: He's the – he's the owner or the applicant, is he?

MR LLOYD: Ah, the applicant?

35

MR CHAPMAN: He's – he's our – he's our - - -

MR LLOYD: The – no, the architect and the town planner.

40 MS SUTHERLAND: Yeah. But this person is not coming.

MR CHAPMAN: Yeah. But Craig Hazell is the traffic - - -

MR LLOYD: Mr - - -

45

MR CHAPMAN: - - - consultant. He wasn't able to make it.

MR COLLESS: Traffic?

MR LLOYD: No. Mr - - -

5 MR COLLESS: Oh, so Craig Hazell - - -

MS SUTHERLAND: Traffic consultant.

10 MR COLLESS: Yeah. Craig – yeah. Yeah.

MR CHAPMAN: Yes.

MS SUTHERLAND: Craig is the traffic consultant.

15 MR CHAPMAN: Yes.

MS SUTHERLAND: And he didn't come. Okay.

20 MR CHAPMAN: He's the traffic consultant, yes.

MS SUTHERLAND: Right.

MR LLOYD: All right. Proceed.

25 MR CHAPMAN: Okay. Um, well, thank you, panel. We obviously, um, support
the recommendation for approval. This is a development application that meets
council's planning controls in terms of, obviously, permissible land use consistent
with dot point 2, Objectives of the Zone, meets the controls regarding height, floor
30 area and the built form controls. It's been designed to, if you like, fit in with the
locality, um, and also as meets the childcare centre guidelines, um, providing areas
for the children and a number of staff. Now, that's an overarching, um, introduction
to it. I think probably, um, my time might be better spent, um, trying to address, um,
the objections.

35 UNIDENTIFIED MALE: Mmm.

MR CHAPMAN: And there was obviously, um, issues raised regarding the
stormwater easement. Um, that stormwater easement is recommended as a deferred
40 commencement condition.

MS SUTHERLAND: Mmm.

MR CHAPMAN: It's giving the applicant 24 months to deal with it.

45 MS SUTHERLAND: Mmm.

MR CHAPMAN: Um, I agree with your comments I was hearing about, um, that it may need to look at, also, Lewis Street, in terms of an alternative. Um, sorry. Boron – going through Boronia. Although that does go across, my understanding would be, um, a number of properties - - -

5

MS SUTHERLAND: Mmm.

MR CHAPMAN: - - - and probably more upset people, um, than burdening, um, these people here. But, um, look, it would be something that could be looked at.

10 Um, the deferred commencement condition, maybe, um, if I could suggest, could be added to, and that is that there's an alternative – and I don't know what the words exactly are, but I – an alternative, um, ah, stormwater design solution that may in fact eliminate the easement altogether. Um, we – the – the applicant did liaise with council stormwater engineers about alternatives, um – and I'll just put them in a
15 group. Ah, overarching, um, a pump-out system for a – another location on the site, being, um, the – the corner at – at Ryde Street. Um - - -

MS SUTHERLAND: Mmm.

20 MR CHAPMAN: And they were all, um – weren't supported by the council. Um, consistently told it needed downstream easement, and – and that's where we ended up, um – and, um, that's where we ended up with the deferred commencement condition. But if – I – I – I hear you, and – and, um, if there's an alternative that we can come up with to address the deferred commencement condition, it gives the
25 applicant some certainty, ie, a consent for approval, that they need to get this stormwater sorted. Um, that might be some – ah, there might be an alternative or additional wording to the condition. Um, we - - -

30 MS SUTHERLAND: Did you discuss, sort of, recycling? Water recycling?

MR CHAPMAN: Oh, I – I – I – I – I - - -

MS SUTHERLAND: With the council.

35 MR RAHMANI: The – the – the stormwater engineer, ah, discussed – this was one of the main issues for the whole – for the whole, ah, period that we designed this project. Our stormwater engineer, ah, has spoken to council's engineers about different alternatives, ah, a pump-out system, um – ah, I'm – I'm not a – a stormwater engineer myself. I'm sure that they, ah, have discussed every alternative.
40 But if – like I said, if – like Garry's been saying, if there is an alternative that we can pursue that council would be, ah, supporting, we're happy to - - -

MS STEPHENS: I'm also not - - -

45 MS SUTHERLAND: Do you do recycling?

MS STEPHENS: I'm also not an engineer. However, I don't think that's part of our policy. The pump-out system is a definite no.

MS SUTHERLAND: No.

5

MS STEPHENS: I know that is a – a thing. And there's a few other things that our policy just doesn't allow. I'm not 100 per cent sure on the – on the recycling. But there is a retention, um, as – rather than detention issue that I know the engineers talk about. As I said, planner, not engineer. Don't speak the language that much.

10

MR CHAPMAN: We – we – we'd be ha – we'd be happy with a - - -

MR HUSSEY: From – from – from what – from what I'm hearing – from what I'm hearing - - -

15

MS SUTHERLAND: There's so many – there are an awful lot of other ways of going about this than digging up somebody's house, 'cause it's gonna – it's gonna actually go un – under their - - -

20

MS STEPHENS: Other ways and other ways that are actually permitted by our policy, unfortunately, are two different things.

MS SUTHERLAND: Right. Yes.

25

MS STEPHENS: So, as I said - - -

MR CHAPMAN: Mmm.

30

MS STEPHENS: - - - I know for sure pump-outs is a – is a definite no-no.

MS SUTHERLAND: But – no, no. We don't want that.

35

MS STEPHENS: Um, aboveground OSD is generally also a no-no under our policy. And it's – it's written quite explicitly, um, so they are two things that I know that are definitely in our policy.

MS SUTHERLAND: So a water tank, you mean?

40

MS STEPHENS: Ah, no. An aboveground basin.

MR COLLESS: Aboveground OSD, yeah.

MS STEPHENS: Aboveground OSD basin - - -

45

MR COLLESS: Mmm.

MS STEPHENS: - - - are not allowed. Um, you – obviously water tanks are allowed, but they're not to replace what's in a detention system as well, so there is a lot of things in there. But, once again, not an engineer, and I'm not 100 per cent over the whole policy.

5

MS SUTHERLAND: But the bigger the water tank, the less you're gonna have to detain and – and – and - - -

MR CHAPMAN: Um, look – look - - -

10

MS STEPHENS: Ah, it can't be used to offset the thing. There's two separate things, from what I can - - -

MS SUTHERLAND: Crazy. Mmm.

15

MS STEPHENS: - - - from what – the conversations I've had with my engineers.

MR CHAPMAN: But - - -

20

MR HUSSEY: But – but at the back of the property - - -

MS SUTHERLAND: In a drought, and we're getting it – we're letting it run down a drain.

25

MR COLLESS: Mmm.

MS SUTHERLAND: You know. I'm sorry.

30

MR HUSSEY: At the back of the property, you have a – some sort of onsite detention, don't you?

MR CHAPMAN: Yes. Yeah. But that's a - - -

35

MR HUSSEY: Near the outdoor storage area.

MR CHAPMAN: But that – that's - - -

MR RAHMANI: Mmm.

40

MR CHAPMAN: - - - a tank, isn't it?

MR HUSSEY: That – that's a tank?

45

MR CHAPMAN: Yeah. Correct.

MS SUTHERLAND: That's a – yeah.

MR HUSSEY: So you've got to discharge that water somehow.

MR CHAPMAN: We do.

5 MR HUSSEY: From what I'm hearing, it seems as if even giving the deferred commencement consent may be premature. The sorting out of the drainage of the property, to make sure it's satisfactorily controlled and if discharge methods - - -

MS SUTHERLAND: Yeah.

10

MR HUSSEY: - - - are needed, should be sorted out before any consent's done. And - and, you know, okay. If there is gonna be an easement down the back, usually the consent authority gets some actual details of the discussions and negotiations with the downstream owners to see if there has been some meaningful effort to get that agreement. I - I - - -

15

MR LLOYD: And the other problem we - that we've been told is that you - you - you - you require a one metre wide easement, but there's not the - the house on the property at the rear is less than one metre from the boundary. That would - - -

20

MS SUTHERLAND: So it can't happen.

MR LLOYD: - - - would seem to rule that out altogether.

25 MR RAHMANI: Sorry, may I - may I speak?

MR CHAPMAN: Yeah, of course.

30 MR RAHMANI: So there is actually plenty of opportunities. The only reason we selected one - ah, what we actually did was we submitted two options to council as to how we were going - how - what the options were for us to - - -

MS SUTHERLAND: Mmm.

35 MR RAHMANI: - - - ah, pursue regarding an - ah, a stormwater easement. The two houses behind us that are ne - that are directly behind us both share a - a boundary with us - so the two properties behind us, and both of those, there's a - we have visited, ah, number 24, I think, ah, at a very early stage, and the back - - -

40 MR A. MCKENZIE: Not - not for this - - -

MS MCKENZIE: No. Not for this development.

MR MCKENZIE: Not for this development.

45

MR RAHMANI: Not for this development.

MR MCKENZIE: No.

MR RAHMANI: Nah.

5 MS MCKENZIE: That was for the detached dual-occupancy houses.

MR RAHMANI: That's right. But what I'm saying is, on both properties, there – because the – there is opportunity on both of the properties behind us, because they share a boundary. Ah, I have the stormwater plans.

10

MR MCKENZIE: But the levels don't work, because the levels that you've supplied say that you have to drain uphill to get to the street.

MR RAHMANI: It naturally runs downstream.

15

MR MCKENZIE: No, it doesn't.

MS MCKENZIE: No, no.

20 MR LLOYD: Where's that plan? The – ah, showing the levels.

MR MCKENZIE: That's the one that's on - - -

MR LLOYD: No, he - - -

25

MS SUTHERLAND: Mmm.

MR LLOYD: He had to have a plan showing the levels.

30 MR RAHMANI: So, ah - - -

MS MCKENZIE: The gradient isn't steep enough.

MR COLLESS: I think there's – at the back there's a stormwater - - -

35

MR RAHMANI: I'm – I'm not a stormwater engineer, but - - -

MR COLLESS: It's got pretty good - - -

40 MR MCKENZIE: And neither are we, but we've had to - - -

MR RAHMANI: Yeah.

MR MCKENZIE: - - - figure all this out. We're furious.

45

MR HUSSEY: Oh, that's what - - -

MS SUTHERLAND: It'll be here somewhere.

MR LLOYD: Oh, here it is.

5 MR MORGAN: I'm happy to talk to

MR RAHMANI: So can I - - -

MS SUTHERLAND: Here we are. There's the levels.

10

MR LLOYD: There it is. Ah, let me understand this. Ah, can you – are you prepared to explain - - -

MR MORGAN: Yes. Oh – ah, in relation to the - - -

15

MR LLOYD: Ah, come – come forward, please.

MR RAHMANI: Yeah.

20 MR MORGAN: In – in relation to the - - -

MR LLOYD: No, no, no, no. No, come forward. I just want to - - -

MS SUTHERLAND: Yeah.

25

MR LLOYD: - - - you to explain what this plan shows.

MR MORGAN: Okay. So the invert level of pit 3 is 112 point oh – 80 metres.

30 MS SUTHERLAND: Mmm.

MR MORGAN: And - - -

MR HUSSEY: Where's pit three on – on the plan?

35

MR MORGAN: Pit 3 is right at the – this is the detention tank here.

MR HUSSEY: Down the back.

40 MR MORGAN: Tank – detention basin. And it's a pit outside that.

MS SUTHERLAND: Oh, here we are. Here.

MR MORGAN: And it's shown on plan D0 - - -

45

MS SUTHERLAND: Yeah.

MR MORGAN: - - - two, which I've got a copy here, if you want to have a look at that.

MS SUTHERLAND: I've got 03 here. Ah, no, we've got it here.

5

MR HUSSEY: Now, that's - - -

MR LLOYD: Ah - - -

10 MS SUTHERLAND: Pit 3, level detail, we're looking, is it? Pit 3.

MR COLLESS: Yeah. 112.03. That's pit 3.

MS SUTHERLAND: Levels.

15

MR COLLESS: The invert's 11 - - -

MS SUTHERLAND: 114.

20 MR COLLESS: - - - 2 – the invert's 112.8.

MR MORGAN: The label - - -

MR COLLESS: Ah, sorry. 112, yeah, point 8.

25

MR MORGAN: Okay. Here it is.

MS SUTHERLAND: Yeah.

30 MR MORGAN: So D02 shows the level – that's the outlet, which is 112.80.

UNIDENTIFIED FEMALE: I can't find the engineer's comments.

MR MORGAN: Okay. So the council engineer for whatever reason has decided
35 not to show - - -

MS STEPHENS: Sorry, can I just – I need to – you – also, the recording, so they need to be able to hear clearly.

40 MR MORGAN: So the engineering plan D03 conveniently doesn't show an invert level at pit 7, which is at the property boundary - - -

UNIDENTIFIED SPEAKER: Second.

45 MR MORGAN: - - - between my neighbour and myself.

MS SUTHERLAND: Pit 7, here.

MR MORGAN: So I've calculated that.

MR LLOYD: Is that the – at – at the street level?

5 MR MORGAN: At the street there. Lewis Street is there. The - - -

MR LLOYD: Yes.

MS SUTHERLAND: Yeah.

10

MR MORGAN: I've – I've calculated using the stated, ah, grade of one per cent, which is an absolute minimum grade for this sort of pipe. So that invert level is 112.35.

15 UNIDENTIFIED FEMALE: The engineering comments aren't signed off.

MR MORGAN: The proposal is to discharge into the gutter at 112.50. So it's got to go 150 millimetres up - - -

20 MR LLOYD: Uphill.

MR MORGAN: - - - uphill.

MS SUTHERLAND: Ah - - -

25

MR MORGAN: Ah, councils, as you know – I mean, obviously you could move it further down, but councils don't like anything more than 45 degrees on a skew like that. There's services going up and down Lewis Street which have to be taken into consideration. There's been no design – and there's been no information, um,
30 obtained by the engineer or their surveyor, which I'm sure the owners of 24 – ah, 26 Lewis Street would welcome a – a boundary survey being done.

MS MCKENZIE: Had they asked us, which they haven't.

35 MR MORGAN: Ah, had they been asked, and a full, detailed survey.

MR RAHMANI: We did – we did ask for that, for – ah, for them to - - -

MR MCKENZIE: You've never asked for a survey.

40

MS MCKENZIE: Not for this development.

MR MCKENZIE: No. Not even the original one.

45 MR LLOYD: No. No.

MR MCKENZIE: There was no survey asked for.

MR LLOYD: Just a moment. You – you – the purpose of calling you up here was so that we could understand this plan - - -

MR MORGAN: Okay.

5

MR LLOYD: - - - and the applicant could understand this plan.

MR MORGAN: Yeah.

10 MR LLOYD: We'll – we'll let the applicant continue, first.

MR MORGAN: Yeah. Sure.

MR LLOYD: All right. You can take this back.

15

MR MORGAN: Okay. Thank you.

MR RAHMANI: Sorry. So what I was going to suggest is that behind – behind our property we have two alternatives.

20

MR LLOYD: Yes.

MR RAHMANI: This is the lower property that we could also go through. So our stormwater - - -

25

MR LLOYD: 24?

MS SUTHERLAND: Mmm.

30 MR RAHMANI: - - - basin is here, and we have the opportunity to – to go through either of those properties, or in that direction. So - - -

MR LLOYD: Mr Morgan.

35 MR RAHMANI: Depending on whichever - - -

MR MORGAN: Yeah. Okay. Ah - - -

MR RAHMANI: - - - whichever works.

40

MR LLOYD: There's an alternative, he says, is to pipe it through your - - -

MS SUTHERLAND: Through your property.

45 MR MORGAN: Of course. And in all – um, sorry. In 2007 – in April of 2007, the engineer with the owner came into our property. We had a discussion. We had a – a look at - - -

MS SUTHERLAND: Mmm.

MR MORGAN: - - - what structures there are in our property. And the decision
5 was made by the engineer that there was no way that he could pipe it through our
property.

MR LLOYD: The engineer being the applicant's engineer?

MR MORGAN: The applicant's engineer. And we wrote to his solicitor when – in
10 August of 2017 and suggested that they look at alternatives, this being one of them.

MR LLOYD: Yes.

MR MORGAN: At that stage they were wanting to do a two-lot subdivision, and
15 Council refused to accept the DA until they acquired an easement. They didn't
require an easement so they dropped the application. They - - -

MR LLOYD:

MR MORGAN: Can I just add something else just for your information? Council
20 will not permit a pump-out system - - -

MR LLOYD: Yes, we've been told that.

MR MORGAN: Yes, but it's possible – you've already got a pump-out system from
25 the basement of this property. Why not have a pump-out system to a stormwater
tank located in another area perhaps closer to Boronia Avenue, where it can gravity
feed into Boronia Avenue? That's definitely a possibility, as I see it.

MR LLOYD: Well, is that a possibility

MS STEPHENS: Not according to Council's policy.

MR CHAPMAN: But it's not uncommon for – if I can just say – for stormwater
35 detention basins to go under driveway ramps and be pumped out into the street.
Because there's going to be a pump

MS STEPHENS: You can do basement pump outs but not from OSD tanks.

MR LLOYD: Well, the Council says no.

MS STEPHENS: It literally says it in our policy: “no pump-out systems”. It's the
boldest, blackest writing in our stormwater policy. And even as a town planner I
45 understand that bit.

MR MORGAN: I agree, but there's no reason why you can't pump from a
basement into – well, that's what's happening now: pumping into the detention

basin – or detention tank – if that was relocated in a position towards Boronia Avenue where it could then discharge, by gravity, into Boronia Avenue. I mean, the natural flow of water is down Boronia Avenue.

5 MS STEPHENS: The engineer's comments say that the location of the tank as it is is the most appropriate place. I've just read the engineer's – our engineer's comments.

MR CHAPMAN: Hence

10

MR LLOYD: Well, look, we - - -

MS SUTHERLAND: I'd rather we reuse the water onsite.

15 MR LLOYD: I'm speaking just for myself. I'm not the other panel members.

MS SUTHERLAND: Recycle it.

MR LLOYD: I'm troubled by all this. If the – if this problem cannot be resolved,
20 then the application falls over at the first hurdle. I wouldn't be inclined to let it hanging in the air like this; we would want some sort of certainty as to what method of disposal is proposed and feasible.

MR RAHMANI: Sure. In my limited knowledge of stormwater engineering, there
25 is another alternative called trenching, where the – one of the things is that any water from the basement could be pumped out, but from the front. But any water that is on the surface of the site can be retained using – like I said, I don't know the details of it – a trenching method where the water is kept onsite and dispersed into the land itself.

30 MS STEPHENS: Yes, no. You're not going to win - - -

MR RAHMANI: No?

MS STEPHENS: - - - my engineers over with absorption trenches.
35

MR LLOYD: No. No.

MS STEPHENS: No. No. No.

40 MR RAHMANI: Okay.

MR LLOYD: No. No, forget that.

MS STEPHENS: Not for something like this, no.
45

MS SUTHERLAND: I'd like piped it into - - -

MS STEPHENS: That's for small for a house.

MS SUTHERLAND: - - - the house to use as greywater.

5 MS STEPHENS: Yes. Not for this. Yes.

MR LLOYD: No. Yes.

10 MS SUTHERLAND: I'm on the sustainability committee of – and I would like it re-piped back into the house and reused as greywater. Stormwater can be.

MS STEPHENS: I don't know if we've got a policy that actually permits that. I – that's my - - -

15 MS SUTHERLAND: You know, double parking, it's a bit more – it's more expensive.

MS STEPHENS: Yes. As I said, I'm not sure we have - - -

20 MS SUTHERLAND: But we're in a drought, for goodness' sake.

MS STEPHENS: - - - a policy that actually permits that. That's my issue.

25 MS SUTHERLAND: Reuse it. It's rainwater. It's not sewerage we're talking, is it? We're talking stormwater.

MS STEPHENS: No, I'm not – I don't have a - - -

MS SUTHERLAND: So why let it just run down and - - -

30 MS STEPHENS: - - - theological issue to it. I just say I don't have a - - -

MS SUTHERLAND: - - - then get more – use more power - - -

35 MS STEPHENS: - - - document that allows me to do it.

MS SUTHERLAND: - - - to put pumps in?

MR LLOYD: Well

40 MS SUTHERLAND: Can we look at reusing the majority of it through the house – in the house?

MR CHAPMAN: We have no objection to reuse.

45 MR RAHMANI: We have no objections to do with that.

MS SUTHERLAND: That's what I would be - - -

MR CHAPMAN: Can I just add to the - - -

5 MS SUTHERLAND: Double parking, like I've done with some major developments I've worked on.

MR CHAPMAN: The comment was made that the application falls over at the first hurdle if we don't get over that. That's not entirely – another way of looking at that
10 is that consent is issued. If you don't get past the deferred commencement consent, ie, give the applicant some certainty that a childcare centre is approved on the site, but if they don't get through the deferred commencement condition, it falls over at the second hurdle, so to speak.

15 MR LLOYD: Well, no. We would like this problem solved first up.

MR CHAPMAN: Well, that problem can be solved. It may be – it might be through s 88K and at forced easements.

20 MS STEPHENS: Which is what our engineer has said.

MR CHAPMAN: Yes.

MS STEPHENS: They've okayed this, what they've put out, that was given to us.
25

MS SUTHERLAND: But we've been told that it can't physically be done.

MR CHAPMAN: Well, we'd go through another - - -

30 MS STEPHENS: But my engineer has actually okayed the plan.

MS SUTHERLAND: Has he been out to see where the houses are - - -

MS STEPHENS: Yes. Yes.
35

MS SUTHERLAND: - - - that are located on the site?

MS STEPHENS: They use desktop. They go out on site as well and everything like that. So as I said, I'm not an engineer, but obviously our engineer was comfortable
40 enough with it. That's all I can say.

MR LLOYD: Well, Mr Morgan is a surveyor.

MS STEPHENS: Yes. That's fine.
45

MR LLOYD: He says there's not enough fall to be able to do it.

MS STEPHENS: I'm not an engineer, but my engineers are comfortable with it, as I said.

MR LLOYD: Has he taken levels?

5

MS STEPHENS: They used – there's some survey plans and, as I said, I don't – this is not my DA, I am not engineer, but I'm reading the referral and he was comfortable with it after they'd done a lot of modifications. This is a 2018 DA. So it's been in for a while - - -

10

MS SUTHERLAND: Yes.

MS STEPHENS: - - - and there's been various – to quote him, “The drainage plans were modified quite significantly since the original submission”.

15

MS SUTHERLAND: Yes.

MS STEPHENS: So as referenced by the applicants before, stormwater was a major issue when it was first lodged, and we've gotten to a stage where council was obviously comfortable enough with it to recommend the approval with the deferred commencement condition.

20

MR LLOYD: Well, after hearing and after looking at these levels, I'm certainly not comfortable with it.

25

MS STEPHENS: Yes. That's obviously your prerogative and your decision, but I'm just reiterating what my engineer has said.

MR LLOYD: All right. What else have you got to say?

30

MR CHAPMAN: I'll move on then just to – it will only be brief. There was issues raised, if I could just say, by the design and staffing, those sort of issues, at the centre. The centre has been designed to meet the childcare centre guidelines in terms of indoor and outdoor space, children to staff ratios. All those things have been covered off. With regard to traffic and parking, there's applicants reports submitted on this. They are reviewed by council's traffic engineer. The application is recommended for approval on the basis of that. There was issues raised about conflicts with school drop-off and pick-up or children walking past. Childcare centres actually have start times or drop-off times a little bit earlier than school. Most instances, people are well on their way by the time school starts at 9 am and they're there later in the day than 3 o'clock school close. So the traffic conflicts or pedestrian conflicts there I don't think are valid, in terms of the actual times, the highest times, of a childcare centre.

35

40

45 MR MCKENZIE: Your traffic report was inaccurate though.

MR CHAPMAN: There was issues about location of the centre - - -

MR MCKENZIE: The sight lines.

MR CHAPMAN: - - - and a number of others being within the locality. The
5 childcare centre guidelines do not know restrict you from having multiple centres in
a location. If it's an economic decision, that's not a consideration - - -

MS SUTHERLAND: No.

MR CHAPMAN: - - - under s 415 of the Act.
10

MR LLOYD: Do you wish to say anything else?

MS SUTHERLAND: We can't dictate how many childcare centres you have on
15 your street - - -

MR CHAPMAN: Correct.

MS SUTHERLAND: - - - under our planning legislation - - -

20 MS STEPHENS: Yes.

MS SUTHERLAND: - - - unfortunately.

MR CHAPMAN: That's correct.
25

MS SUTHERLAND: We don't have that power. It's sort of - - -

MS STEPHENS: That power was taken away from councils in 2017.

30 MR CHAPMAN: Correct.

MR LLOYD: Well - - -

MS SUTHERLAND: Yes. It's a sort of democratic right for you to put it where -
35 you know, we can't - it's free market, unfortunately.

MS: Could I just ask a question.

MR LLOYD: All right.
40

MS SUTHERLAND: No. Wait, wait.

MR LLOYD: Thank you.

45 MR CHAPMAN: Thank you.

MR LLOYD: The council's traffic engineer is here. Would you come forward, please?

5 MS AHMED: David, just while the traffic engineer is walking up, I'd just like to let you know that Mr is here if you'd like to – it's up to you.

MR LLOYD: You've heard what the residents have had to say.

10 MR MOUSAVI: Yes..

MR LLOYD: Does that change your opinion at all?

MR MOUSAVI: Sorry?

15 MR LLOYD: Does that change your opinion at all?

MR MOUSAVI: No.

20 MR LLOYD: Why not?

MR MOUSAVI: Regarding the sight lines, which seems is the most important one, there is misinterpretation regarding the sight lines. When we talk about X metres sight line, it's measured along the way the driver is driving, rather than direct distance between two cars. I developed the plan here. I can show you, if you allow me to show you, enough sight lines is available at the driveway, and we put a condition, imposed a condition, to lower the fences and all of the vegetations in front of the building to lower than 900 mils so that enough sight lines for at least five seconds be provided.

30 MR LLOYD: You're talking about cars coming up the steep driveway to the front of the property - - -

MR MOUSAVI: Yes.

35 MS SUTHERLAND: So they can see.

MR LLOYD: - - - from the basement.

40 MR MOUSAVI: I'll show you, if you'll - - -

MR LLOYD: Yes.

MR MOUSAVI: Here it is. This is the driveway, wide street, Boronia Avenue.

45 MS SUTHERLAND: I see.

MR MOUSAVI: Minimum stopping sight distance is 28 metres for 30 km per hour, which require this area to be cleared. If we want to have a desired five second gap, it needs 42 metres. This is 42 metres.

5 MS SUTHERLAND: Right.

MR MOUSAVI: So this area need to be cleared completely. For this reason, we put this condition to clear all the - - -

10 MR LLOYD: I follow. Does the panel understand that?

MS SUTHERLAND: Yes.

MR HUSSEY: Yes.

15

MR LLOYD: Thank you. Does the fact that we've been told that this is on a bus route make any difference to your opinion?

MR MOUSAVI: Sorry?

20

MR LLOYD: Does the fact that we've been told that this is on a bus route make any difference to your opinion?

MR MOUSAVI: The traffic generated by the development is – just let me be clear from my report. The traffic generation would be maximum 25 vehicles per hour. This is a two-way traffic, one in and one out.

25

MR:

30 MS AHMED: Can you just let the engineer speak, please?

MR MOUSAVI: Okay. So it means about 12 to 13 cars will be involved in one hour period.

35 MS: No. That's not true.

MR: Absolutely not.

MS: That's not true.

40

MR: I think you got your hours and minutes mixed up.

MR LLOYD: Please, the traffic engineer has the floor. Please be quiet.

45 MR MOUSAVI: This means about, in average, every two and a half minutes, one car come in and one car come out. This may change. Nobody can say definitely every two and a half minutes, but in average, this is the timing, and as residents

mentioned, every 15 minutes one bus – or even 10 minutes one bus may come during the peak period. So the conflict between buses and cars would be pretty much minimal.

5 MR MCKENZIE: The buses are twice that though, because the buses go both ways.

MS: Both directions. Both directions.

MR MCKENZIE: Both directions.

10

MR LLOYD: Please, let the traffic engineer finish.

MR MOUSAVI: So from my point of view, my professional judgment is no, there is not too much conflict.

15

MR LLOYD: Could you leave that plan with us that you just showed us about the sight lines?

MR MOUSAVI: Yes.

20

MR MCKENZIE: Is the council aware that there's been a car that's crashed through our property before?

MR MOUSAVI: I read through your submission.

25

MR MCKENZIE: Okay.

MR MOUSAVI: Yes. But from my memory, it was from Ryde Street; is that correct?

30

MR MCKENZIE: That's correct.

MR MOUSAVI: At the roundabout.

35 MR MCKENZIE: But that shares a boundary with the playground for the childcare centre.

MR MOUSAVI: Yes. There is a roundabout there and there is a possibility of somebody lose their control too.

40

MR MCKENZIE: Which has happened on more than one occasion.

MR MOUSAVI: Yes. Which has happened.

45 MS: crash history at that location.

MR LLOYD: We are still engaged with the traffic engineer. Does the panel have any questions of the traffic engineer? Where did you get those numbers from, of traffic numbers?

5 MR MOUSAVI: Which one?

MR LLOYD: The numbers you quoted, number of vehicles per hour.

10 MR MOUSAVI: From the RMS guide to generating traffic development, which is a formal government from the state government providing trip rates for every different land users.

15 MS SUTHERLAND: Do you see any benefit in putting short-term parking, drop-off signage for the beginning and the end of the day so that there's a quick – a lot of turnover of this space right in front of the dwelling or on Ryde Street or somewhere that's - - -

20 MR MOUSAVI: If the proposal is to be approved, definitely there would be some sort of on-street drop-off and pick-up. So I personally support providing a couple of short-term, say, 10, 15 minutes - - -

MS SUTHERLAND: Spaces.

25 MR MOUSAVI: - - - drop-off, pick-up spaces on the street to facilitate the drop-off, pick-up, but probably it needs to be on Ryde Street rather than the Boronia Avenue frontage, so that the sight line to the right don't be restricted.

30 MS SUTHERLAND: But it could only be for, say, an hour or so in the morning and the evening.

MR MOUSAVI: Yes.

MS SUTHERLAND: The rest of it would be unrestricted.

35 MR MOUSAVI: Yes.

MS SUTHERLAND: Just a thought of how we get the drop-offs happening that are - - -

40 MR LLOYD: Yes.

MS SUTHERLAND: - - - without using a lot of traffic parking.

45 MR HUSSEY: So you don't support short-term parking in Boronia?

MR MOUSAVI: Yes. Because if – at the frontage of the property, because if somebody park there, then the sight line to the right from the access driveway will be

restricted and based on that map I showed you, we don't want to restrict sight lines at that area.

MR LLOYD: Yes. I understand.

5

MS SUTHERLAND: So it would have to be half way up the side boundary on Ryde Street.

MR LLOYD: I understand.

10

MR MCKENZIE: There's no room to park there.

MS: It's no-stopping.

15

MR MCKENZIE: It's no stopping.

MS: Along Ryde Street.

MR MOUSAVI: Currently, there is no-stopping for the first 10 metres.

20

MS SUTHERLAND: Yes.

MR MCKENZIE: Between the roundabout and Boronia Avenue, there's no stopping.

25

MS: On Ryde Street.

MR MCKENZIE: Yes. On – sorry. On Ryde Street. Yes.

30

MR MOUSAVI: No. That's okay.

MS SUTHERLAND: Okay. So we can't do that at all.

MR MOUSAVI: So probably the applicant will need to think about some sort of drop-off – pick up area in the vicinity.

35

UNIDENTIFIED FEMALE: So

MS SUTHERLAND: So this is not stopping.

40

MR MOUSAVI: Any - - -

MR LLOYD: All right.

45

MR MOUSAVI: - - - type of parking restriction changes need to be approved by the local traffic committee. If there is any road safety issues, the traffic committee won't approve it, so - - -

MR HUSSEY: How do you go to the local traffic committee? If you wanted to have a proposal where you had on-site short-term parking, do you have to have a DA, or can you get an application for approval in principle before any DA comes in?

5 MR MOUSAVI: The way traffic committee is working is any application need to submit a separate application, separate from the DA – a separate application which will review for you the traffic engineers and then will review why the committee members, which are from a different – a lot different organisation, including the RMS, Roads and Maritime Services, police – different organisations - - -

10 MS STEPHENS: The bus people are in that meeting as well, so the bus - - -

MS SUTHERLAND: Yes, yes, yes.

15 MS STEPHENS: Yes.

MS SUTHERLAND: Police too, aren't they?

MS STEPHENS: Police and also councillors - - -

20 MR HUSSEY: Councillors, yes.

MR LLOYD: All right. Any other questions from the panel?

25 MR HUSSEY: No.

MR LLOYD: Thank you very much. I think we're going to have to adjourn. We are going to have to adjourn and consider this application, and we will come back shortly with a determination.

30
ADJOURNED **[5.19 pm]**

35 **RESUMED** **[5.37 pm]**

MR LLOYD: Well, I can say the panel has come to a decision which is unanimous. In announcing the decision, I should say that the fact that there are other childcare centres in the vicinity is not relevant. The zoning allows childcare centres in this area, and you can have as many childcare centres as you like in an area. That's not a matter for us. That is a matter for the proponent to consider when considering the viability of the proposal; nevertheless, the panel has decided to refuse the application for reasons which will now be announced. There are four reasons why we have determined to refuse the application, and I will spell them out now.

40

45

The panel's reasons are as follows: (1) the panel is not satisfied that the fundamental issue of drainage has been resolved or is capable of being resolved. Moreover – this is still number 1.

5 MS STEPHENS: Still number 1?

MR LLOYD: Full stop. Moreover, there is no evidence that the applicant has demonstrated whether any reasonable attempts have been made with downstream property owners to - - -

10

MS SUTHERLAND: Downstream.

MR LLOYD: - - - downstream property owners to acquire an easement for drainage. (2) the need to provide appropriate sightlines - - -

15

MS SUTHERLAND: Sightlines.

MR LLOYD: - - - sightlines - - -

20 MS STEPHENS: Sightlines.

MR LLOYD: Not sidelines.

MS STEPHENS: Sorry.

25

MR LLOYD: Sightlines – s-i-g-h-t.

MS SUTHERLAND: S-i-g-h.

30 MS STEPHENS: Yes.

MR LLOYD: Sightlines.

MS STEPHENS: Have I got it right this time?

35

MS SUTHERLAND: No, no, i-g-h.

MR LLOYD: S-i-g-h-t.

40 MS SUTHERLAND: As in eyesight.

MS STEPHENS: My apologies. I'm not a town planner - - -

MR LLOYD: Sightlines.

45

MS STEPHENS: - - - obviously.

MR LLOYD: Necessarily involves the removal of extensive existing vegetation along both frontages of the subject property.

MS SUTHERLAND: Of existing - - -

5

MR LLOYD: Vegetation.

MS SUTHERLAND: - - - vegetation.

10 MS STEPHENS: Vegetation.

MR LLOYD: Along both frontages of the subject property and which must otherwise be kept clear.

15 MS SUTHERLAND: Clear.

MS STEPHENS: Clear.

20 MR LLOYD: Clear – full stop. This would in turn result in a development that is out of character with the existing area. (3) the basement car park for drop-off and pickup is restricted together with its maximum gradient, resulting in an increased likelihood of on-street parking close to the intersection. (4) the impact on any such on-street parking, together with the proposed pedestrian refuge - - -

25 MS STEPHENS: Proposed pedestrian - - -

MS SUTHERLAND: Refuge.

MR LLOYD: Pedestrian - - -

30

MR HUSSEY: Refuge.

35 MR LLOYD: - - - refuge should first be considered by the local traffic committee – by the local traffic committee. Those are the reasons. They suggest that this application is premature until those problems have been resolved. So that is the formal determination. It is a refusal for those stated reasons. And thank you all for your input into this decision.

40 MR: Thank you very much.

MR: Thank you.

MR: Thank you.

45 MR LLOYD: And I can formally close the meeting at 5.45.

RECORDING CONCLUDED

[5.44 pm]