



MS D. LEESON: Well, good morning and welcome. Before we begin I would like to acknowledge the traditional owners of the land on which we meet, the Gadigal People, the Eora Nation. I would like to pay my respects to the elders past and present. Welcome to the meeting today on the proposal whereby the Star  
5 Entertainment Group Limited, the applicant, is seeking approval to modify the project approval for the Star Casino at 20-80 Pymont Street, Pymont, to provide a new hotel and residential tower within the existing casino complex. My name is Dianne Leeson. I am the chair of this IPC panel.

10 Joining me are my fellow Commissioners, Stephen O'Connor and Adrian Pilton. We are assisted by Alana Jelfs from the Commission Secretariat and Adam Coburn from Mecone Consulting, who are assisting the Commission Secretariat on this project. The other attendees at this meeting are Alana – sorry, Anthea Sargeant, David McNamara, David Glasgow and Brendon Roberts from the Department of Planning,  
15 Industry and Environment. In the interests of openness and transparency and to ensure the full capture of information today's meeting is being recorded and a full transcript will be produced and made available on the Commission's website.

20 This meeting is one part of the Commission's decision-making process. It is taking place at the preliminary stage of this process and will form one of several sources of information upon which the Commission will base its decision. It is important for the Commissioners to ask questions of attendees and to clarify issues whenever we consider it appropriate. If you are asked a question and are not in a position to answer, please, feel free to take the question on notice and provide any additional  
25 information in writing which we will then put up on our website.

It would be helpful if people didn't speak over each other, so in the interests of a clear recording and if speakers could introduce themselves for the first time before they speak. We will now begin. So welcome again. We've provided a – an agenda,  
30 which I think the Department has had the opportunity to have a look at go through. We've made our introductions before the meeting. We probably don't need to make any more. We have the agenda here. We thought what we might do is leave it to the Department to work their way through the agenda and we will ask questions as we – as we go along. And if there's anything that we think is – is not addressed, then we  
35 will pick that up as we go as well. So, Anthea, I hand across to you.

MS A. SARGEANT: Yes, okay.

40 MS LEESON: Thank you.

MS SARGEANT: Okay. My name is Anthea Sargeant. I'm the Executive Director for Compliance, Industry and Key Sites at the Department of Planning, Industry and Environment. So I will just give a quick overview of the project itself and then we'll  
45 go into more of the detail following the – the questions in the agenda that you've – that you've put to us. So – so, Di, you – you gave a bit of an overview of what the proposal is for a 237 metre tower, approximately 66 storeys. So – so we're saying

that it is a 66 storey tower. There have been some – some claims by the applicant that they're actually proposing a 61 storey tower. I think we're talking about the same thing. We – we include basements and – um – sorry, not basements, podiums and lift overruns and things like that as part of our calculation of the number of  
5 storeys.

MS LEESON: But you agree it's 237 metres?

10 MS SARGEANT: We agree on the height, yeah.

MS LEESON: Yeah. Yeah.

MS SARGEANT: Um – but that's just the difference in the way we consider the storeys versus what the proponent does. Um – so the – the tower itself is for 204  
15 residential apartments, 220 hotel rooms. There's also a neighbourhood centre that has been proposed. There's approximately 49,000 GFA – um – of which 50 per cent of it is residential apartments, 42 per cent for the hotel – um – and eight per cent which will be – um – food and beverage and the neighbourhood centre. Um, the site – um – is on the existing Star Casino – um – premises. Um, there are a number of  
20 buildings already on the site, um, including the Star Grand Hotel, which is approximately 74 metres or 19 storeys.

Um, the – the site – um – is not – um – within an area that is identified as a state significant precinct. And I think that's one of the – the key aspects that – that we  
25 wanted to highlight. Um, the proponent has – um – presented their concept of a global waterfront precinct – um – to the Department as part of its proposal. Um, and the department feels that there isn't any statutory work that has been done to support such a concept. Um – so our – our view is that – um – there's a number of state significant precincts that have been identified surrounding the site, so I can point  
30 towards Barangaroo, Darling Harbour, the Entertainment Quarter – um – the – the Convention Centre that have all been identified as state significant precincts and, in fact, have – um – steps that are being prepared – um – to support any uplift in growth within those precincts.

35 However, there is no such precinct declared for the Star Casino site – um – nor is there anything planned. Um, so as far as we are aware there is no – um – plan to do any state significant precincts within the Pyrmont area – um – both within government – um – and nor by council. Um, the surrounding area of Pyrmont – um – is described as a mixed urban character. It is part of a heritage conservation zone.  
40 Um, the – um – the highest building – um – within the general vicinity of the site is the – um – what is it – Jacksons Landing – um – which is approximately – I think it's 10 storeys. Is that right, Jacksons Landing?

45 MR D. McNAMARA: Ten to 20. It varies.

MS SARGEANT: Yeah, 10 to 20. It varies. So the height that has been proposed at – um – the Star Casino site is significantly higher than – um – anything that

currently exists – um – or anything that is planned for the site. Um, I just wanted to give a really quick overview of – um – the process to date – um – and – and David and – um – and Brendon will probably go into this in a bit more detail. Um, SEARs or the Secretary’s Environmental Assessment Requirements were first issued in  
5 February 2016. They were amended in May of that same year. Um, between May 2016 and July 2017 – ah – the proponent held a design competition. Um, and we will talk about the design excellence process a bit later on.

Um, there was a number of versions of the environmental assessment prepared by the  
10 proponent and submitted to the Department between July 2017 and July 2018. Um, and the Department – um – didn’t accept every one of those – ah – documents. We, um, finally accepted an EA in July of 2018, um, and the exhibition commenced shortly after that. Um, so from the Department’s perspective the environmental assessment – um – was submitted in August of 2018. Um, and we’ve taken  
15 approximately 12 months to complete our assessment – um – and our recommendation to the IPC. Um, so I might hand over to – I think, Brendon – or you – so David’s going to – to talk through – um – a bit more detail on the proposal itself – um – and talk through a couple of the agenda items that you’ve presented.

20 MS LEESON: Can I just take us – oh, no, you’ll probably do it as part of your overview. I was just – I just wanted to explore that notion of the global waterfront precinct a little more.

MS SARGEANT: Yeah. Yeah, well, we’ll go into that.

25 MS LEESON: So if you’re going to do that, David, then I’ll wait.

MS SARGEANT: Yeah.

30 MS LEESON: Thanks.

MR McNAMARA: David McNamara, Director, Key Sites Assessment. So we’re just going to step through a couple of the other agenda items and I’ll also ask Brendon and – and David Glasgow to assist me as we do this. Firstly, I’ll just talk  
35 quickly about the statutory pathway, section 75W modification, rather than a new development application. Um, section 4.1 of our assessment report does speak to this issue. Um, there’s two key considerations here. It is, firstly, the power to request a modification under section 75W. And that power does exist where a project was originally approved under part 3(a), which is the case here.

40 That can be modified under section 75W as long as that request was lodged prior to 1 March 2018. What’s considered to be the request to modify is not the lodgement of an application, it is actually the request to modify in request years, which we did receive on 17 December 2015 so well before the cut-off date. Um, therefore, the part  
45 3A provisions and power to modify under section 75W are available to the proposal and for that reason we allowed and continued to work with the proponent to get an

adequate application to go on exhibition. Um, the second consideration around the modification pathway is the scope of the proposed changes.

5 Putting a merit assessment to one side for a moment, the – the department was satisfied that the proposal could be assessed as a modification as it was seeking to change the terms of the approval by imposing additional conditions, revoking conditions or varying conditions. So the idea of the modification we felt was able to be lodged and considered. That didn't mean that we were endorsing the modification itself. It was simply going through the first gateway to be considered. Um, with  
10 section 75W there are not the equivalent limitations on the power to modify that normally exist under section 4.55 of the Act, which is substantially the same test, so that doesn't apply here.

15 Section 75W, by its construct, is very broad in what can be considered. Um, however, it's not so broad to be completely open slather so to speak. There is some case law on the matter of section 74W that talks to the test for a decision maker if you want to approve a modification is that you need to be of the – take the evaluative judgment that there are limited environmental consequences of the modification beyond those that were already assessed. Um, I think that's an important test for the  
20 decision maker. Um, at the time of determination a decision maker must consider those environmental impacts and whether they are of limited environmental consequence.

25 Our assessment report has focused on the merit of the proposal. We've raised a number of concerns with the merit of the proposal but as we were not the decision maker and our report was not making the decision, we stopped short of reaching a position on the issue of limited environmental consequences and whether this could be determined to be a modification. That is something that, in our view, is for the decision maker to do as part of a decision making process, something we would  
30 expect and independent decision maker, such as the Commission, to deal with in their statement of reasons for their decision.

MS LEESON: Okay.

35 MR McNAMARA: So that's all I had intended to say in and around that but I'm happy to take questions before we move on.

40 MR O'CONNOR: Thanks. Steve O'Connor. I just have a question, um, around that issue you've just raised of those – that test of limited environmental consequences. In the environmental assessment report prepared by Urbis, they've quoted that , um, comment from the judgment and then gone about making that comparison and eventually concluding that there weren't significant environmental consequences, or more than limited environmental consequences. Um, but the question of baseline comes into play and they adopted a baseline which was  
45 everything from the original 3A project approval, including up to modification 14, as the baseline. Does the department have a view about whether that's the appropriate

baseline to start from, looking for those – any environmental acts over and above that?

5 MR McNAMARA: Sure. Look, all I could point you to is my understanding of the – the court’s judgment on this and I would suggest you might want to take your own advice. It does talk about limited environmental consequences beyond those already assessed that may have the meaning of those assessed through – including modifications but I would recommend - - -

10 MS LEESON: Gives a suggestion of a cumulative - - -

MR McNAMARA: It does - - -

15 MS LEESON: - - - approval.

MR McNAMARA: - - - but I think it would be something to – it would be wise to take your own counsel on.

20 MS LEESON: Yep. Thanks, David.

MR McNAMARA: Okay. So I will move on next to an overview of our assessment report and our approach to some of the key issues, um, and I will take these in a slightly different order to that on the agenda, if that’s okay.

25 MS LEESON: That’s fine.

MR McNAMARA: Just for the flow. Firstly, I will speak to the strategic justification, the existing vision for Pyrmont and its potential as a global waterfront precinct. Um, I would refer you to section 6.2 of the department’s assessment report, which goes into some detail around this issue and in particular summarises the proponents’ justification for the tower. They rely very heavily on the proposed tower contributing to a new global waterfront precinct and that would be defined by the tall buildings at Barangaroo, Darling Harbour, Cockle Bay, the ICC Sydney Hotel, Darling Square, Harbourside – Harbourside Shopping Centre. And I could provide you, at this point, with some images. There’s some A3s there that we can share.

35 MS LEESON: Thanks.

MR McNAMARA: And I will refer to, on – the fourth page, which is figure 17 from our assessment report.

40 MR PILTON: Thank you.

MR McNAMARA: You will see the applicants’ diagrammatic representation at the top of page – of the global waterfront precinct, with those buildings that I just mentioned shaded in yellow, um, linked together by a large long red arrow. Um, and that’s their diagrammatic representation of the concept. We’re not convinced by the

justification for this concept for several reasons. We would – we would note that Barangaroo, Darling Harbour and the Bays Precinct are designated as identified sites within the State and Regional Development SEPP, given the significance of those sites to the state.

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The Star site is not located in one of those identified precincts. The – as Anthea mentioned before, the area of Pyrmont and the Star site specifically are not designated for significant future growth in any adopted or emerging planning policy. There are no adopted government plans for more height or floor space on those sites, as there are throughout these other development precincts. The proposed tower is over 100 metres taller than the next tallest building on the western side of Darling Harbour, which would be the ICC Hotel. It's – it's also more than about 80 metres taller than what's being proposed on the Harbourside site but I would also note that application has not been determined and may well be modified.

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MS LEESON: But it is within an identified site? The Harbourside proposal - - -

MR McNAMARA: It does. Yes.

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MS LEESON: Yes.

MR McNAMARA: Yes. It sits within the Darling Harbour area. Um, so not only is it also 100 metres taller than the next tallest building, it would be one of the most – tallest buildings in Sydney, probably the fifth or sixth tallest building in the city at 237 metres. Um, it's very close to the height of the Deutsche Bank building and the Citigroup building, which are only five or six metres taller, respectively. So it is a significant tall building that we are talking about in the context of Sydney. Um, our assessment notes that the tower is isolated – physically separated from those concentration of tall buildings at Barangaroo, which frame the western edge of the CBD and Darling Harbour, and it is significantly separated from any future development at the Bays Precinct.

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Um, there's no certainty around what the future built form of the Bays Precinct will look like at this stage. Um, so their strategic justification, their strategic waterfront precinct, in our view, can't be relied on. It doesn't have any planning weight, it has not been subject to any strategic planning community consultation process. It's not part of any current or proposed council or state government planning policy.

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MS LEESON: I understand that there's no, um, planning proposal for the Bays Precinct, or no statutory planning in place. It is marked for some kind of redevelopment and renewal and I – for me, it's this question around the whole notion of where the department might have a view of what will constitute a global waterfront precinct and how far it might extend and how you might approach that, you know, in coming forward. It's – I understand that there's a statutory set of - - -

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MR McNAMARA: Sure.

MS LEESON: - - - planning, um, instruments that are in place but does the department have a view on where the precinct might go and what might, ultimately, be constituted as a global waterfront precinct?

5 MS SARGEANT: I mean, when it comes to Pyrmont itself, um, we don't have a view, um, as to what the future character of Pyrmont might look like. Um, there may be some work done down the track but at this point in time, um, there is nothing planned for that part of Pyrmont, um, because our view would be without some sort of mass transit solution for the area, um, that – that that particular peninsular can't  
10 handle any further uplift.

MS LEESON: And I think I saw a reference in the documentation that although a metro station had been identified by the applicant, there's been no commitment to a  
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MS SARGEANT: No.

MS LEESON: - - - metro station - - -

20 MS SARGEANT: No.

MS LEESON: - - - in the vicinity at this point.

MS SARGEANT: And the department has investigated that through government  
25 channels to see if there is any appetite for a metro station, um, at Pyrmont, um, and, at this point in time, there has been no commitment, um, and we're unable to rely on the future metro – a future metro station at that location.

MR McNAMARA: And I think that question of mass transit is also relevant to what  
30 will become of the Bays Precinct. It's – it is very premature to – to speculate what'll happen there until there are commitments from Government in and around transport solutions, and there needs to be a – a whole strategic planning process led in consultation with relevant local councils and the community to – to shape what that will be. Um, similarly, that work has to happen in parts of Blackwattle Bay, um, to  
35 the south of the site. So from – from – from our perspective, it just wasn't an appropriate proposal through a development application to establish a new context for – for this part of Sydney, um, and that's why we felt that we couldn't – we weren't convinced by their – their global waterfront precinct concept.

40 MS LEESON: So can I, without trying to put words in the department's mouth, get a sense that your view would be that global waterfront precinct at the moment would probably end at the Harbourside - - -

45 MS SARGEANT: At the moment.

MS LEESON: - - - development on the - - -

MR McNAMARA: As of today?

MS SARGEANT: Yeah.

5 MS LEESON: On the southern side of Darling Harbour?

MS SARGEANT: Yeah.

MR McNAMARA: Yeah.

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MS LEESON: As of today?

MS SARGEANT: Yeah.

15 MR McNAMARA: As of today. And – and – and the City may – the City of Sydney would – would have views around the longer term sort of 30 to 50 years of what might happen and – and – and there could be a lot of things that might change in that time and they'll all hinge around, I believe, um, mass transit, ah, decisions and solutions.

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MS LEESON: Thanks, David.

MR McNAMARA: We'll move now to – the next issue we'd like to discuss is visual impact, including the planning principle number 4, which we cited in our report, and I'll hand over to David Glasgow to – to step you through a summary of that issue.

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MR D. GLASGOW: Um, my name's David Glasgow. I'm a principal planning officer at the department. Um, so we've considered visual impact, um, including, um, the planning principle relating to bulk and height from the Veloshin v Randwick Council case in section 6.2.1 and 6.2.2 of our assessment. Um, the – the application – there's – a visual impact assessment accompanied the application at appendix H. That's from the proponent, and that's also been peer reviewed. That's at appendix ZZ. Um, and this provided a range of views – distant views and local views from surrounding viewpoints. There – there's a selection of those in our report where we've shown, um, the vision impacts, and they're figures 20 to 31, um, and in your package there, there's a copy of those pages, um, yeah, beginning there.

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Um, so because it's a part 3A project and there's no planning controls technically applied to the proposal, um, we've considered the appropriateness of the tower's bulk and scale against the principles established in that case, um, which ..... four principles related to bulk and height under different circumstances, and under principle 4, which we've labelled 4 for ease of reference in our report:

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45 *Where there are no controls for bulk and character applicable to the proposal, the approach is to consider the proposal against whether the planning intent for the area appears to be the preservation of the existing character or the*

*creation of a new one and answering whether the proposal looks appropriate in its context.*

5 Um, so we engaged, ah, Professor Peter Webber for independent design advice and the question for him to answer was if a tower form was appropriate in the location given the local and wider context. Um, that advice raised significant concern in relation to the establishing of a tall building in this location related to visual impacts, the bulk and form being unrelated to its context and the precedent outside of, ah, any – um, any statutory planning.

10 So having regard to the proponent's visual assessment and the independent design advice, we considered that the proposal failed, um, to address planning principle number 4 for four reasons. So the proposed height and bulk significantly exceed the height and bulk of the existing buildings surrounding the site and the wider Pymont Peninsula, which is inconsistent with the existing desired – ah, existing and desired  
15 future built form character in Pymont. Um, it's at odds with the predominantly low-rise built form character of the surrounding area, um, and concluded that it is overly dominant and does not look appropriate in its context, um, for those reasons.

20 MS LEESON: The planning principle 4, um, that's come up in that case law, has it been applied in other case law that the department knows of?

MS SARGEANT: I'm not aware of – I'm not aware of any.

25 MS LEESON: Okay.

MS SARGEANT: What about you, David?

30 MR McNAMARA: I'd have to take that on notice.

MS SARGEANT: Yeah.

35 MR McNAMARA: I know it would've been used as a tool in assessments, but whether it's come up subsequently in other case law, we can take that on notice and come back.

MS LEESON: And whether it's been accepted as a tool in assessments would be helpful as well, if you could just - - -

40 MR B. ROBERTS: It was used – um, sorry, my name's Brendan Roberts. I'm a team leader in the Key Sites Assessment Team. We used planning principle 4 in our assessment of a modification at Shepherds Bay in relation to, um, the Meadowbank development. It was a modification also under part 3A that sought to increase the height of one of the towers. Um, I can't for the life of me remember what the – the  
45 actual site is, but, um, I can definitely send, um, the Secretariat a link to that report.

MS LEESON: It would be useful to get a sense of how widely used - - -

MR McNAMARA: Yes.

MS LEESON: - - - that principle is, ah, at the moment, how – how often it's been used.

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MR ROBERTS: I'll reiterate what my colleague, David, said. It's – it's – it's used in the absence of, um, the – the department being able to use the planning controls applicable to the proposal. So it predominantly relates to part 3A project, um, but where there is a very clear planning control, then – then – then that's used. So the majority of the time, a planning control would be used, yeah.

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MS LEESON: Thanks.

MR McNAMARA: Yep.

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MS LEESON: Thanks.

MR McNAMARA: So it's probably fair to say it doesn't get – it won't be used as much in this – at the moment, because with the SSD, State Significant Development, construct that replaced part 3A, the LEP controls apply. You've generally got something to – to judge it against. The use of this tool is very handy where – where there are – where those rules have been switched off, but we can certainly - - -

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MS LEESON: Yes.

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MR McNAMARA: - - - give you some information on its use, be it might have been used more a few years ago.

MS LEESON: Thanks. And the other question I have is around precedent, where the department has expressed in the report – ah, in their assessment that this is likely to set a precedent, and then the applicant, in its response, has suggested that any other development would be taken on its merit. Ah, has the department got any comment around those two competing sort of views?

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MR McNAMARA: I think every application must be considered on its merit, including this one, um, would be my first comment. Um, secondly, our independent design advice did cite that it is often where one tall building is created, it puts pressure on either not just individual development applications, but puts pressure on controls to change. Um, there could be the thought that if you allowed tall buildings in a location, you create a new context, ah, and – and the precedent value of this may be more from a strategic planning, ah, context rather than a straight development assessment precedent.

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MS SARGEANT: I mean, I think from a – um, from the department's perspective, we would like to see the strategic planning lead the way in terms of setting what the character should be in an area, rather than, um, relying on a single application, um,

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and then that sets precedents for future development that could come. Um, we would much prefer to do it in a strategic context rather than doing it in a statutory context.

MS LEESON: Yes. Okay.

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MR McNAMARA: Okay. The next issue we'll, ah, talk to briefly is public benefit and public interest, and this is considered in section 6.4 of the department's assessment report. Ah, in summary, the proposed public benefits and contributions offered by the proposal would include the delivery and operation of a neighbourhood centre, and we'll talk more about the specifics of the operation of the neighbourhood centre a little later, ah, creation of what would be expected to be, um, around 500 new construction jobs and 265 operational jobs, um, standard development contributions and affordable housing contributions would be levied on any approach. Um, the value of that's approximately seven and a half million dollars. It would be subject to verification of the quantum of floor space, ah, and also verification of the rates to be applied, ah, in consultation with the City of Sydney.

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MS LEESON: So is that including or excluding the neighbourhood centre? Excluding the neighbourhood centre. What - - -

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MR McNAMARA: They're separate contributions - - -

MS LEESON: Yes

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MR McNAMARA: - - - levied under the Act for - - -

MS LEESON: So they were the levied contributions.

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MR McNAMARA: The levied contributions - - -

MS LEESON: Thanks.

MR McNAMARA: - - - under the Act, yep, yep.

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MS LEESON: Thanks.

MR McNAMARA: There are obviously broader economic benefits related to jobs. Um, the new hotel and the upgraded casino facilities may contribute more broadly to the economy in New South Wales and tourist-related benefits, um, and we did acknowledge that there's no negative environmental impact specifically with respect to things such as wind, traffic and ESD, and in trying to weigh up the public benefit offer, you do need to consider the negative impacts of - of the proposal.

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MR A. PILTON: Is there a copy of the wind report on your site, because I couldn't find anything in here about wind other than it said it doesn't have an impact.

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MR McNAMARA: We - - -

MR PILTON: Um, I'd be surprised - - -

MR McNAMARA: - - - will confirm where that is, if there - - -

5 MS SARGEANT: Yeah.

MR PILTON: - - - because - - -

MR McNAMARA: Yeah.

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MR GLASGOW: Winds - - -

MR PILTON: - - - I've never seen a tall building - - -

15 MR GLASGOW: Wind is - - -

MS SARGEANT: I would - - -

MR PILTON: - - - that didn't have downdraft.

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MR GLASGOW: Wind is in there.

MS SARGEANT: Yeah, I would've thought it was part of the - - -

25 MR GLASGOW: Yeah.

MS SARGEANT: - - - EA package - - -

MR PILTON: Yeah.

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MS SARGEANT: - - - but we can follow that up.

MR GLASGOW: It is, yeah.

35 MR PILTON: If you could just - yeah.

MS SARGEANT: Yeah.

MR McNAMARA: We can - - -

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MR PILTON: It's very hard to find stuff on.

MS SARGEANT: Yeah. Okay.

45 MR McNAMARA: Yeah. No, we can send you the specific document.

MR PILTON: If you could, thank you.

MR McNAMARA: Um, so we support the neighbourhood centre as a – as a direct public benefit, um, subject to if this proposal was to proceed, you'd have to include appropriate management and fit-out conditions to ensure it's affordable, accessible, made available to the local community in perpetuity. A number of submissions  
5 raised questions around, well, how would the facility operate, and we'll talk a little bit more about what the proponent responded to those concerns a little later. Um, but the nature and type of the benefits are typically – are typical for a development of this type, and we felt the only unique public benefit offered by the proposal was the neighbourhood centre, um, at approximately 1700 square metres. Um, there'd be no  
10 broader benefits to the public from the project, um, that you might see on something of this scale, um, on other sites. Um - - -

MS LEESON: We'll ask the applicant, but do you have a sense of the construction value or the – the capital value of that neighbourhood centre at 1700 square metres?  
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MR McNAMARA: Um, not a specific number. They will have a number for you. It depends on what construction rate they're adopting and what – if they're – if they're valuing it based on the lost rental return that it might otherwise achieve over a 30-year period. You could get some pretty wildly differing opinions. We stopped  
20 short of trying to give it a specific value, um, for that reason. There was still some uncertainty how it would be offered, and whilst it would come at a value, we felt, when you through the rest of our assessment, that whilst there would be these benefits, there are also some significant impacts in relation to a proposed tower in this location. And we felt, in conclusion, that those public benefits were insufficient  
25 to offset the impacts caused by the proposed tower, and for that reason, we conclude that the proposed modification's not in the public interest.

MS LEESON: So that would be the direct benefits, rather than necessarily normal contributions that would be applied to any particular development?  
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MR McNAMARA: Yeah. Look - - -

MS LEESON: Yes.

MR McNAMARA: - - - the normal contributions are calculated based on – it's a complicated calculation that the City adopts, but it does come down to the value of the development, the number of jobs and workers that'd be generated by different uses. So it's a standard calculation that a development of close to 49,000 square metres of floor space would be expected to pay those. Seven and a half million is a,  
40 um, reasonably small percentage of the overall CIV of the project. I think it'd be around two or three per cent.

MS LEESON: Yes. My question was really not around the – the statutory contributions, because they will be what they will be and they'd apply to - - -  
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MR McNAMARA: Yeah.

MS LEESON: - - - any development. It's really around the notion of the, ah, extra direct public benefit - - -

MR McNAMARA: Yes.

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MS LEESON: - - - that's being offered. So what's the public benefit offer, I suppose, rather than a statutory - - -

MR McNAMARA: Yeah. Well - - -

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MS LEESON: - - - contribution?

MR McNAMARA: Yeah, and we thought – it's a – it's a neighbourhood centre.

15 MS LEESON: It's just the neighbourhood centre.

MS SARGEANT: And – and the jobs, and the – yeah.

20 MR McNAMARA: Yeah, to some – yeah, to some extent the jobs, but, again, that quantum of floor space anywhere in and round the city will deliver those – those job benefits, so that's not so unique in itself. So it was a small neighbourhood centre and we felt the impacts of the proposed tower, um, were more significant than the value of the benefits.

25 MR O'CONNOR: Just, um, can I ask in relation to that neighbourhood centre, is it your understanding that the, um, proprietors – the proponent is going to retain ownership and actually staff and manage that as opposed to being transferred to council and it becomes a council asset with council holding onto it?

30 MR GLASGOW: Yeah, it's council – my understanding is that the council won't be involved. Um, so it's proposed to be managed by the Star in conjunction with an advisory committee made up of community members. So that's the management plan that they've provided, which is at appendix I of their – of their response to submissions. So they've mapped out what the uses will be for each floor and then  
35 how it'll be managed, but, obviously, if it was going to be supported – the project was going to be supported, that would have to be tied up in conditions and sort of management plans consulted on.

MS LEESON: And I think they've made a 30 year commitment with review - - -

40

MR McNAMARA: Correct.

MR GLASGOW: Yeah.

45 MS LEESON: - - - then at the 10 and five year marks beyond that but - - -

MR McNAMARA: Yep. Which, again, adds a question as to what the genuine long term value of it is.

5 MS LEESON: But management, certainly I read from the document, says it would be done by Star because they felt that they could better make financial use of it – not – sorry, not make financial use of it but optimise the use of it, which seemed to have created a bit of concern in the community who interpreted that as Star would prioritise what uses it was for.

10 MR McNAMARA: Yep.

MS LEESON: But they clarified in their response to submissions that it would be only for community use but they would manage the facility.

15 MR O'CONNOR: So I guess the reason for the question is, when it comes to trying to value what – what that is worth, it is a bit unusual or different.

MR McNAMARA: Sure.

20 MR O'CONNOR: And, you know, one way you can look at it is that if it were transferred to council, council to have the ongoing operational costs, etcetera, so in some ways it might be seen as – of greater value but then the uncertainty about the longer term, you know, that might detract.

25 MR McNAMARA: Yep. And – and there can be - - -

MR O'CONNOR: So just trying to really understand what the - - -

30 MR McNAMARA: Yeah. And there can be so many different models of how it can be developed and then handed on to a council and – and what their longer term costs can be. Um, it would be – I would recommend asking council whether this type of facility is something that is – has an identified need. Um, I would assume they will have infrastructure plans and the like that look to what their needs are in the area, whether this fits a need, whether it's surplus to needs, um, something that only  
35 council could really comment on but I think an important consideration to the benefit to the community that this facility may or may not provide.

40 MS LEESON: The applicant also was looking for a subdivision. Was the neighbourhood centre one of those subdivisions? I can't recall in the documents whether it was – there were five subdivisions I think.

45 MR GLASGOW: Yeah. Five subdivisions so The Star Sydney, which is – lot 500 is the base site basically and there's other lots in the hotels on top of them. So The Star Sydney - - -

MS LEESON: This is the vertical subdivision that they were looking for?

MR GLASGOW: Yeah.

MR McNAMARA: Yeah.

5 MS LEESON: Hotel, residential - - -

MR GLASGOW: Hotel, residential, car stacker and residual stratum. So yeah, we would have to take that on notice where the - - -

10 MR McNAMARA: We will have to take it on notice which stratum. It's not a separate stratum for the neighbourhood centre. It would be within either The Star Sydney site or, um, the - - -

MS LEESON: Okay.

15

MR McNAMARA: Probably within The Star Sydney site but can we take that on notice to confirm?

MS LEESON: Thanks.

20

MR GLASGOW: There is a plan in appendix BBB of the - of the subdivision - - -

MR O'CONNOR: There is a plan. I think it's about 32 pages - - -

25 MR GLASGOW: Yeah.

MR O'CONNOR: - - - so it takes quite a bit of comprehending what is proposed.

30 MR GLASGOW: I think you can skip the top 40 storeys but I think the main info is in, yeah, podium up to the top of the extension on the existing building.

35 MR McNAMARA: And the stratum subdivision was the extended subdivision they were seeking through this approval. That wouldn't have precluded them separately seeking strata subdivision of the residential but that didn't form part of the application before us.

MS LEESON: Yep. Okay.

MR O'CONNOR: Yep.

40

MR McNAMARA: But - - -

MR O'CONNOR: It's usually the first step towards that.

45 MR McNAMARA: Yes. Correct. Correct. And, um, I just wanted to make that clear. It was just stratum subdivision they were looking for here.

MS LEESON: Thanks.

MR McNAMARA: So in terms of design excellence and the design of the proposal, I will now touch on that briefly. Again, it's covered off in some detail in our report  
5 and section 6.1 is the key section, um, for you to review here. Um, we do  
acknowledge the proposed building represents the winning scheme following a  
design competition, um, which was one of two competitive design processes  
provided for by the SEARs. A competition brief was established by the proponent.  
The proponent invited architectural firms to participate and the design review panel  
10 was conveyed to review and select the preferred design, and that was the design by  
FJMT which evolved into the application before us.

The department advised the proponent that the process, um, for a competition as an  
alternate design excellence process did adequately address the requirements of the  
15 SEARs insofar as a brief was prepared, competitors were involved and a jury  
selected the preferred design.

MS SARGEANT: Can I just jump in there and just also say that when we endorsed  
the process, that was done just after the process was identified but before the actual  
20 design competition had been completed so – and there's – I just wanted to be clear  
that we – the department did endorse the process but not the outcome.

MS LEESON: Right. The - - -

25 MR PILTON: So did the department endorse the brief?

MS SARGEANT: We endorsed the – did we endorse the brief or was it more  
around the process of which they were undertaking the design excellence?

30 MR ROBERTS: We endorsed – so the brief set out the process for - - -

MR McNAMARA: Yep.

MR ROBERTS: - - - completing the design competition. We wrote to the  
35 applicants saying we had reviewed the brief and the process that you outline is in  
accordance with the SEARs.

MS LEESON: I've not been able to find the brief – the competition brief on the  
40 website.

MR McNAMARA: Yep. We can provide - - -

MS LEESON: It could be my - - -

45 MR McNAMARA: Yes – no, it's - - -

MS LEESON: - - - lack of skill. But if you could provide that brief that would be helpful.

MR McNAMARA: Yes.

5

MS LEESON: The- the point I want to have a conversation around is that the SEARs clearly contemplates that a tower may result from the design competition. But I would like to tease out the department's thoughts on accepting that a brief can go out with a tower when the department might think that a tower is not an appropriate solution for the precinct.

10

MR McNAMARA: The SEARs guide, what a proponent must address if they wish to make an application to pursue a tower. The SEARs in no way endorsed the concept of a tower. The SEARs are really to say if you want to propose any type of development, here are the matters you must address to convince a decision maker of the appropriateness of your proposal. So the SEARs are a response to the applicant saying we want to build a tower. The design competition was a response to the proponent saying we want to build a tower. And then, once we have the benefit of those processes, the design competition processes input, like, other technical reports into the environmental assessment.

15

20

We then have to assess that. We can't assess it up front and go we don't believe the tower has merit. We have to allow it to go through the process. But I want to make it, yeah, very clear that the SEARs do not endorse a tower. They simply set the standards by which an application for a tower needs to be judged by.

25

MS LEESON: Thanks.

MR McNAMARA: When we do provide you with a copy of the design excellence brief, it does set out the process. It does also, um, flag in it that during that design excellence process, the panel will give careful consideration to the urban context of the proposed development and the appropriateness of the design alternative responses. Then, we would note the advice of that design review panel when they nominated the preferred design by FJMT, specifically said – and this is contained in our report – that:

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*The proposed buildings' architecture exhibits design excellence when considered in accordance with the brief but the DRP recommended the modification application clearly demonstrate how the project relates to planning for other nearby areas to the west of the CBD including, for example, Darling Harbour and the Bays Precinct, the Fish Market, White Bay –*

40

etcetera. So whilst they endorse the architecture of the building, they don't endorse the strategic context. The brief flagged the strategic context as important. Their recommendation to the team was before they pursue the project, they need to clearly demonstrate how it related. They've sought to do that through their application and

45

that's the fundamental part of the application, their global waterfront precinct, which we don't find those arguments compelling.

MR PILTON: But - - -

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MR McNAMARA: But there are issues that have been flagged since day 1 of the competition that that's an issue that needs to be cognisant of with any development proposal.

10 MS LEESON: Perhaps you can provide the DRP report with the brief.

MR McNAMARA: Yep.

15 MR PILTON: It also says in here – I think it said that a government architect in December last year confirmed that they were satisfied that the proposal addresses the recommendations that you're just referring to - - -

MR McNAMARA: Um - - -

20 MR PILTON: - - - which seems to imply to me that the designer panel was happy with the contextual response and so on.

MR McNAMARA: Which - - -

25 MR PILTON: Page 79 I think it's written down. Um – yep. I'm going to have to go through it in detail. I just - - -

MR McNAMARA: Yeah. I - - -

30 MR PILTON: I wrote that in December '18 the government architect confirmed that the panel was satisfied that they had addressed the recommendations and that it exhibits design excellence.

MS LEESON: Perhaps then, Adrian, if we do see the - - -

35

MR PILTON: I will have to go back though it and refer it to you.

MS LEESON: The design panel report - - -

40 MR McNAMARA: We – we can take – yep. And if there's any questions coming out of that - - -

MS LEESON: We will come back to you after that.

45 MR McNAMARA: - - - we would be happy to take that on notice. Yep. Yep.

MS LEESON: Thanks.

MR PILTON: Yep.

MR O'CONNOR: Excuse me, David. Do you refer to two design review processes that were undertaken?

5

MR McNAMARA: No. One design review process undertaken. There was – well, there was a step in between where they asked the – for more work to be done.

MR PILTON: I think – I think what you're referring to is there's to – it's said you have a design excellence competition or an – an alternative time - - -

10

MR McNAMARA: In the SEARs. Yes.

MR PILTON: Yeah.

15

MR McNAMARA: So the SEARs prop – propose – could've undertaken a design excellence process in accordance with the City of Sydney's requirements.

MR COBURN: Yeah.

20

MR McNAMARA: Or there was the alternate process that they could undertake. So the SEARs spell out specifically what each of those are. So it – um – could refer you to the SEARs - - -

MS LEESON: And they chose - - -

25

MR McNAMARA: They chose the - - -

MS LEESON: - - - the second path.

30

MR McNAMARA: - - - the second path. Yep.

MS LEESON: The design, and – and I think I'm interpreting that. The Design Review Panel then made a report, selected the FJMT - - -

35

MR McNAMARA: Correct.

MS LEESON: - - - Tower.

MR McNAMARA: Correct.

40

MS LEESON: I think, even subsequent to that, perhaps once the environmental assessment was being done, they sought confirmation from the Design Review Panel that the progression of the design for the document and it was consistent and that it met the context of the, uh, of the surrounding environment. I think that was a - - -

45

MR McNAMARA: And that that - - -

MS LEESON: - - - follow up - - -

MR McNAMARA: Yes. So that - - -

5 MS LEESON: ..... that they'd asked the panel.

MR McNAMARA: - - - follow-up – uh, that follow up point, there's no report of that follow-up point. There is only what the proposed - - -

10 MS LEESON: There is just commentary.

MR McNAMARA: Commentary and unattributed quotes in the RtS.

MS LEESON: Yes.

15

MR McNAMARA: Um – so there's no formal report of that reconvened - - -

MS LEESON: Okay.

20 MR McNAMARA: - - - panel.

MS LEESON: Thanks.

MR McNAMARA: But we will provide you with copies of the design excellence  
25 brief and - - -

MS LEESON: The original one. Thank you.

MR McNAMARA: - - - the design excellence report, which – the design excellence  
30 report largely talks about the process they followed. Um, we would also just note in terms of the brief that it was established to at – achieve a tall tower at that specific location, there's a diagram – a diagram ..... it might be in our report. There's a diagram that – that's contained within the brief. It's actually figure 12 in our report, it won't be in the large format figure before you, which shows the envelope that was  
35 provided to the competitors. As you can see, it's quite a specific envelope. A tower in that exact location, the competitors were not asked to consider how you would distribute an additional circa 50,000 square meters across the site.

They were pointed towards a specific outcome. And that's part of what a design  
40 brief with that alternate process can do, um, but it did preclude, um, the consideration and selection of alternate design propo – propo – proposals. I'd also note the brief contains a specific indicative building envelope and that the weighting of the brief was approximately 70 per cent attributed to commercial functionality and buildability factors. So it was significantly weighted towards, um, the outcomes that  
45 the applicant was seeking to achieve.

MS LEESON: Mmhmm.

MR McNAMARA: We felt, um, also importantly that the overall assessment of design excellence is not only restricted to the architecture of a building, the – the – the architecture of the object, it needs to not – in – consider more broadly in terms of the urban context, the character of the area, the visual impacts associated with such a tall building, which is what we've looked at in some detail through our assessment. .

MS LEESON: So – so when the department was looking at the brief, to sign it off as part of the first process, did the ca – ah – the department express that they would like to see alternative designs or site solutions be explored as part of the competition – by the excellence process? Because you've – you've seen a brief that's obviously geared to a tower and you want competition briefs to explore the context of the precinct. Um, I – I can't quite reconcile the department's approach to signing off the brief.

MS SARGEANT: Well, we didn't sign off the brief.

MS LEESON: Right.

MS SARGEANT: We signed off on the process, which is around the alternative design process. So we never endorsed the brief as such.

MS LEESON: Okay. Thanks for clarifying that. Sorry, David. I interrupted.

MR McNAMARA: Oh, no. I – I – I'd just about finished, actually. If there's any other questions in and around design excellence - - -

MR PILTON: Does the department have a view on the fact that the, um, or we each in the Heritage Council didn't object, given that the context seems to be part of the recommended refusal?

MS SARGEANT: Um.

MR PILTON: I mean, I would expect them to come back and say, you know, "This has a terrible impact on the area."

MS SARGEANT: Um, it is quite unusual for government agencies to object to proposals. It does happen, but it's – it's – it is rare. So, you know, I – I think, you know, we – we note that the Heritage Council didn't object to the proposal. Um, however, you know, we've looked at, um, a number of different things. And I'm not saying that the Heritage Council didn't look at those same things. But, um, you know, we've formed our view, um, and we've taken on board the advice that the government agencies have provided.

MR GLASGOW: They generally have a narrow focus towards the State – State listed items.

MR PILTON: Okay.

MR GLASGOW: And effectively, their advice will always start off with whether it affects those and then they will get more involved.

MR PILTON: Mmm.

5

MR GLASGOW: In this case, it wasn't the case. So - - -

MR PILTON: Okay. Thank you.

10 MR McNAMARA: Okay. The next item I'll quickly talk about is the draft State Environmental Planning Policy, Environment. The policy which was exhibited in January 2018 – and what considerable, if any weight should be given to it, considering it's still a draft 18 months later, um, appendix C of our assessment report works through all of the relevant, um, steps, including draft steps. I'd note we've  
15 effectively undertaken assessment there of what would happen if that draft SEPP came into effect. And it would transfer provisions from other existing, um, state environmental planning policies and regional environmental plans.

The fact that it is still a draft, you – and we haven't given it any significant weight.  
20 The important point I would note though is the provisions we discussed that would be in the draft SEPP are currently in the Sydney Regional Environmental Plan – Sydney Harbour Catchment. And that plan has been in effect since 2005 and does need to be given weight. And we discuss the relevant clauses of that plan in appendix C. Um, so really, it was - - -

25

MS LEESON: Can – can I just - - -

MR McNAMARA: Mmm.

30 MS LEESON: - - - clarify that, sorry, because this is part of the procedural thing where there was they Sydney Harbour Regional Catchment, per the catchment SEP  
- - -

MR McNAMARA: Yep.

35

MS LEESON: - - - SREP

MR McNAMARA: Yep.

40 MS LEESON: It had regard to the LEP – no, I'll – I'll get the logic of this wrong. But I think the – the fact that the section 75 process sets aside the LEP, has that also therefore set aside the REP because the REP deferred to the LEP?

MR McNAMARA: It sets aside – this is where it gets nice and complicated. It sets  
45 aside parts of the REP. The REP does talk about certain elements of it. There's a particular clause, I think, in division – a division of it in clause, which apply - - -

MR GLASGOW: Yeah, matters for consideration, which - - -

MR McNAMARA: - - - which – which – and for part 4 and part 5 applications,  
5 which this is not. So part of the REP gets turned off, but the broader objects and  
aims of the plan are not switched off. And we've sought to discuss that in our report  
both in appendix C, and there's also some discussion in section – is it section .....

MR GLASGOW: It's the beginning of the report in the statutory context, I think,  
10 next - - -

MR McNAMARA: In section 4 of the report, we also discuss the relationship of  
that plan. So it is a little bit – yes - - -

MS LEESON: Mmm.  
15

MR McNAMARA: - - - in short, it is confusing. Part 3A turns off parts of some  
legislator and not – not other parts. So – but I would refer you to section 4 of our  
report and appendix C. Um, if on review you have any other questions, we'd be  
20 more than happy to – to discuss that in a bit more detail.

MS LEESON: Thanks .....

MR McNAMARA: So I think we've covered off - - -

MS LEESON: Okay.  
25

MR McNAMARA: - - - most of the key issues. We can talk a little bit about  
suggestions for the site inspection, but we could leave that to the end if you want to  
raise other questions in discussion in the interim.  
30

MS LEESON: I think that the proponent has included in their response to  
submissions suggested amendments to the approval. So what their conditions – their  
suggested conditions - - -

MR McNAMARA: Yes.  
35

MS LEESON: - - - would be, if the Commission was of a mind to approve the  
proposal – has the department had a look at those conditions and got a view on the  
appropriateness of them?  
40

MR McNAMARA: We have had some regard to it, but where we got to with our  
assessment and – and our deliberations, we didn't complete our review. And I think  
as we'd flagged in – in our report, there are a number of what we consider to be less  
determinative matters that we've looked at here that would require - - -  
45

MS LEESON: Mmm.

MR McNAMARA: - - - specific conditions in mitigation in around the operation of the facility and – and lighting and other matters. If the Commission was minded to consider the support of it, there would be another body of work that we would feel needs to be done in and around the appropriateness of the conditions. Potentially,  
5 additional conditions and mitigation strategies. What we did do for those other more minor matters, we were comfortable that there would be a form of mitigation that would be suitable. We just didn't complete the process of defining it and turning it into a condition, etcetera.

10 MS LEESON: Okay. Thanks. So, um, that's all that we had on our agenda. We've talked about the neighbourhood centre. Um, we've talked about, I think, pretty much everything else on our ..... list, the subdivision process which I jumped the agenda. Um, so suggestions for the site inspection?

15 MR GLASGOW: Um, there's a image in the – I think it's the last page in the drawings that you've got, where, um, we've highlighted the views that we've used in our report. So they're – they're the locations, um, and the figures are referenced to the figures in our report, which you've also got the numbers there. So they're all the – they're all the views that we've used in our report.

20

MS LEESON: Right. Okay.

MR GLASGOW: Um, the importance of views is – is various ratings in the proponent's, um, VIA – so ones that are really, um, heavy public use and really busy  
25 areas. Like, Barangaroo foreshore and some others have got a – you know, a higher rating of view importance, um, but most of – almost all of those are in the high view importance, um, in terms of the way that they've – they've categorised them, but they're the views that we've used, um, to demonstrate our position on the visual impact.

30

MR McNAMARA: I mean, if the opportunity provided it, to – to walk from the western edge of the city, over the Pyrmont Bridge and then do a circuit of the site would be – would – would be a valuable way of understanding its context as well, and seeing it from Darling Island sort of to the north of the site. Um, there's –  
35 there's a number of opportunities there, if - - -

MR PILTON: Just – do you know if – if it's actually going to be visible from beyond the – you know, The Rocks area and so on, up the harbour? Can – can you see that building?

40

MR McNAMARA: We know there are views from the – from the north, from northern parts of the harbour, that sort of western – from the western side of the bridge.

45 MR PILTON: Yeah, yeah.

MR McNAMARA: Those. Whether it's - - -

MS LEESON: You mean Taronga Zoo or something?

MR PILTON: Well, yeah. I was thinking - - -

5 MR McNAMARA: Yeah. We – well – well - - -

MR PILTON: I'm just thinking because the Crown Casino building - - -

MR McNAMARA: Yes.

10

MR PILTON: I'm pretty sure that's going to be visible from way up the harbour.

MR McNAMARA: Yes.

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MR PILTON: I don't know if this one will, you know, because of the perspective involved, but - - -

MR McNAMARA: Well, very, very similar height, but obviously that – that - - -

20

MR PILTON: There's a bit more distance involved, yeah.

MR McNAMARA: The distance will potentially – there would be points - - -

MR PILTON: It's not that important. I just wondered if you'd looked at that.

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MR McNAMARA: I – I thi – yeah. But I - - -

MS LEESON: My sense would be that you would lose it against the backdrop of the CBD the further north - - -

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MR PILTON: I think when - - -

MS LEESON: - - - and east you went up the harbour.

35

MR McNAMARA: Yeah.

MS LEESON: You'll – you'll lose it in the context of the - - -

MR PILTON: I would think that - - -

40

MR McNAMARA: Although Taronga Zoo, I would - - -

MS LEESON: The zoo you might.

45

MR McNAMARA: I would guess you would see it from the top of part – the top part of the zoo.

MR PILTON: I think Peter Webber mentioned in his report, you know, when you looked at it from Martin Place, you'd just lose it amongst everything else.

5 MR McNAMARA: And there's a – there's an image in our report that does show that, yeah.

MR PILTON: Yeah.

10 MS LEESON: Yeah.

MR McNAMARA: Yeah. Yeah.

MS LEESON: There was one other question that came to mind. I've lost it now. Sorry. I can't remember what it was.

15 MR McNAMARA: That's okay.

MS LEESON: If I – if I recall it, we'll – we'll - - -

20 MR McNAMARA: Yeah.

MS LEESON: - - - come back to you.

MR McNAMARA: And I'd just sort of summarise. There's a couple of things we need to come back to you on. The other – use of principle 4 and other assessments - - -

MS LEESON: Yes.

30 MR McNAMARA: - - - in court, copy of the wind assessment, copies of the design excellence process brief documentation – just direct that to you – and also clarify where the neighbourhood centre sit – which strata block the neighbourhood centre sits in.

35 MS LEESON: Yep.

MR McNAMARA: Um, that's what I'd got down. If there was anything else, please let the secretariat, um, send through - - -

40 MS LEESON: Right.

MR McNAMARA: - - - any other clarifications.

MS LEESON: I think that's all we went through this morning.

45 MR McNAMARA: And, look - - -

MR PILTON: Yep.

MR McNAMARA: - - - assuming you'll be briefed by the proponent and the  
5 council today or in coming days, if that raises any other issues of clarification, then  
by all means ask the secretariat to get in touch, and we can assist wherever we can.

MR PILTON: Thank you.

10 MS LEESON: We will. Thank you.

UNIDENTIFIED MALE: Thanks very much.

UNIDENTIFIED MALE: I'm fine.

15 UNIDENTIFIED MALE: Thanks.

MS LEESON: I think we're all good. Thank you very much.

20 MS SARGEANT: Thank you.

MR McNAMARA: Thank you.

MS LEESON: Thanks for coming along.

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**RECORDING CONCLUDED**

**[10.33 am]**