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INDEPENDENT PLANNING COMMISSION

MEETING WITH DEPARTMENT OF PLANNING AND ENVIRONMENT

RE: CHANNEL 9 WILLOUGHBY MOD2

PANEL: **DIANNE LEESON**
RUSSELL MILLER
JOHN HANN

ASSISTING PANEL: **DAVID KOPPERS**

**DEPARTMENT OF
PLANNING AND
ENVIRONMENT:** **ANTHEA SARGEANT**
BEN LUSHER
BRENDON ROBERTS
JAMES GROUNDWATER

LOCATION: **IPC OFFICE**
LEVEL 3, 201 ELIZABETH STREET
SYDNEY, NEW SOUTH WALES

DATE: **8.36 AM, TUESDAY, 13 NOVEMBER 2018**

MS D. LEESON: We'll get started anyway. So, as you know, we have a newish process for dealing with matters before the Commission. So good morning and welcome. I'll read from our scripted introduction here, to make sure I get it right. Before we begin, I would like to acknowledge the traditional owners of the land on which we meet, and I would also like to pay my respects to their elders past and present and to the elders from other communities who may be here today.

Welcome to the meeting today. Euro Properties and Lotus Property Fund No. 8, the proponent, is proposing to modify its concept approval MP10-0198 for a staged residential development which includes small-scale non-residential uses at Willoughby, in North Sydney. Key elements of the modification include: excluding the portion of Scott Street owned by Council from the site; increase the approved building envelopes from seven to nine; increase the maximum gross floor area from 37,136 square metres to 43,907 square metres; increase the maximum number of dwellings from 400 to 460; amend building envelope heights, while maintaining the maximum approved envelope of RL 105.4; and include child care facilities with permitted use.

My name is Dianne Leeson. I'm the chair of this IPC panel, and joining me are my fellow Commissioners Russell Miller and John Hann. The other attendees of the meeting are David Koppers. In the interest 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. 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 information in writing, which we will then put up on our website. I request that all members here today introduce themselves before speaking for the first time, and for all members to ensure they do not speak over the top of each other, to ensure accuracy of the transcript. We will now begin.

So – Dianne Leeson – I'm Dianne Leeson. Look, thanks for coming along, as I say. We have a number of questions and issues, I think, we would like the department to help us with, to understand the project and the process. Our first question is, I think, around the governance of the project, in terms of the statutory planning pathway. And the department – this has been an issue raised by Willoughby – and I think what we would like to understand is the role of 75W in this, and the applicability of 75W to this, so that we're clear that we're on the right statutory path. So we might start off with that as a question to the department, and then we'll launch into a few other things.

45

MS A. SARGEANT: Okay. I'll just introduce myself. My name's Anthea Sargeant. I am the executive director for key sites and industry assessments at the department of Planning and Environment, and I've got my team with me today, who will introduce themselves before they start speaking. I guess, to answer that
5 question, I think maybe Ben would be the best person to answer that, in terms of the scope of the part IIIA and 75W applicability.

MR B. LUSHER: Yes, happy to do that, Anthea. My name's Ben Lusher; I'm here in my role at the department as director of planning frameworks, although I was
10 involved in key sites assessments through the better part of the assessment of this project. The question is the applicability of section 75W to the project. Section 75W there is the mechanism by which what we will call transitional part IIIA projects can be amended up until 1 March of this year. This application was submitted before
15 that date, so that provision continues to apply to this project. Under section 75W, the power to modify or the ability to consider a modification to an approval is broad.

It's well established and it's beyond, I guess, the more well-understood confines of section 96 of the Act, which have quite specific tests applied to it. It's well
20 understood that 75W is not constrained by those same tests, and it allows for a much broader consideration of modifications to an approval. In saying that, we're quite comfortable with the scope of the proposed modifications being within section 75W, given that it still remains a residential master plan of a similar scale and scope that was originally approved, and the nature and scope of the impacts associated with the
25 project are similar to what was originally considered.

MS LEESON: Okay. Is there any follow-up question from the Commission?

MR J. HANN: Not on that particular point, but – and we may go into this in a little bit more detail – but it relates to the status of the other MODs, and just – it would be
30 helpful for us just to understand – it has been, I think, well-articulated in here, but if you could just explain that there are other MODs, and they're sitting there, that haven't been withdrawn, and how that works.

MR LUSHER: I think, for – just for clarity, you're referring to in particular MOD
35 1; and there's also another MOD, known as MOD 3 - - -

MR HANN: Yes.

MS LEESON: Yes.
40

MR LUSHER: - - - which the department has on its books, in effect. But MOD 1 – and, James, you can jump in at any point with the detail – MOD 1 was submitted to the department some time ago. It incorporated what was the original site, which included, in part, part of a site that's known as Scott Street, which is owned by
45 Willoughby City Council. There was – the department took the view that the owner's consent was required, from Council, to submit the modification, and - - -

MS LEESON: To exclude Scott Street?

MR LUSHER: Not necessarily to exclude it, but to make the modification application which incorporated Scott Street as part of the site.

5

MS LEESON: Okay.

MR LUSHER: The – what transpired from that debate with the proponent was the proponent submitting an application known as MOD 2, which is the current application, which actually excluded Scott Street from the subject site. Now, the MOD 1, which is still technically on foot, in practical terms has been set aside, from – and the assessment of that project has not progressed at all. We understand that the applicant will withdraw that application once this application is resolved in one way, shape or form.

10
15

MR HANN: And that's at their discretion, is what you're saying? So, obviously
- - -

MR LUSHER: It is.

20

MR HANN: - - - before us is MOD 2, and that's what we're to address and deal with.

MR LUSHER: That's right.

25

MR HANN: But MOD 1 sits there, nevertheless, as a live application, if I could put it that way.

MR LUSHER: But it is yet to get Council's consent, as landowner, in respect of Scott Street, for MOD 1.

30

MR HANN: But that's notwithstanding the Land and Environment Court's decision on that matter, which came at a later - - -

MR LUSHER: So the Land and Environment Court's decision was made in respect of the exclusion of Scott Street - - -

35

MR HANN: Right.

MR LUSHER: - - - rather than the inclusion of Scott Street - - -

40

MR HANN: Okay.

MR LUSHER: - - - if you like.

45

MR HANN: Yes.

MR LUSHER: And so MOD 3 – I have to be honest; the details of MOD 3 are eluding me right now. But I think, in effect, what it sought to do was simply modify the concept approval to adapt and relocate those building forms that were on or near Scott Street, but not really do – make any other changes to the existing concept approval.

MS LEESON: I think I saw in the report that the applicant has indicated they would also withdraw MOD 3 should this be approved.

MR LUSHER: That's our understanding, too, yes.

MS SARGEANT: And it hasn't been exhibited, has it?

MR LUSHER: No, we haven't progressed - - -

MS SARGEANT: Yes.

MR HANN: Right, okay.

MS SARGEANT: So we - - -

MR HANN: Thanks.

MS SARGEANT: We would also have to re-look at that, if it was to progress in - - -

MR HANN: Yes.

MS SARGEANT: - - - any way because the cut-off period has now closed for accepting further modifications. So that's something that we would have to re-assess, but it's unlikely that we would be able to accept it anyway.

MR HANN: Yes, because March 1 has - - -

MS SARGEANT: That's right.

MR HANN: - - - been and gone.

MS SARGEANT: Yes.

MR HANN: Okay.

MS SARGEANT: And the next cut-off date, if you like, for the applicants to submit an application to us was in September.

MR HANN: Right.

MS SARGEANT: And that's gone.

MS LEESON: So that's gone.

MS SARGEANT: Yes.

5 MS LEESON: Okay. Russell, did you have a follow-up there?

MR R. MILLER: Anthea – it's Russell Miller. On page 15 of the report, you refer to the statutory context. I just want to go back to that for a minute. And you say the department is of the view the proposal doesn't warrant a new application, and section 10 75W can apply. Can you just tease that out a little, tell us what the considerations were, and why you came to that conclusion.

MS SARGEANT: So the main consideration is around the environmental impacts, so that the environmental impacts are not significant compared to what was 15 originally assessed as part of the concept. So when we accept an application, we do form a view as to whether or not those impacts are acceptable, but we really need to go through the assessment process to really firm up that view, and come to a position, which we do through our assessment, that yes, in fact, those impacts are acceptable, or not inconsequential to what was originally assessed.

20 MS LEESON: So essentially that's a judgment call that says, "On the face of it, we think we can deal with it - -"

MS SARGEANT: When we accept – yes.

25 MS LEESON: "- - - without a new application."

MS SARGEANT: That's right – when we accept - - -

30 MS LEESON: And then you go - - -

MS SARGEANT: - - - the application.

MS LEESON: - - - through the detailed assessment.

35 MS SARGEANT: That's right.

MS LEESON: And if that detailed assessment said your initial judgment wasn't right – or, you know, you changed your view - - -

40 MS SARGEANT: Our assessment report would - - -

MS LEESON: - - - you'd probably go back and - - -

45 MS SARGEANT: - - - talk to that, yes.

MS LEESON: Yes, okay.

MS SARGEANT: And then we probably wouldn't be recommending approval.

MS LEESON: Yes, okay.

5 MR B. ROBERTS: I'd like to just, I guess, draw the Commission's attention to what Ben said earlier, and our assessment of - - -

MS LEESON: Sorry. You just need to - - -

10 MR ROBERTS: Sorry. My name's - - -

MS SARGEANT: Say your name.

MR ROBERTS: My name's Brendon Roberts. I'm a team leader at the department.
15 I'd just like to draw your attention to what Ben said earlier about the fact that when an application comes in under section 75W, we would assess it or consider it against the statutory provisions, and the statutory provisions for a modification are quite broad-ranging, a lot more broad-ranging than they are – they would be for other modifications. The – you know – the extent to which an application – or the specific
20 impacts of an application – are considered, in terms of whether it's a modification or not, is not really something that we would consider until we actually get into the detail of it. But for us it's just the specific requirements of – you know – does it meet the statutory requirements for 75W.

25 MS LEESON: Okay. All right. I mean – I think we've probably explored that far enough for the moment. So we might move into some of the issues that you've addressed during your assessment. One of the issues that we'd like to talk about is public benefit offer, and how that translates into a VPA. And I'd like to explore the department's view on differentiation between what's required because of a proposal
30 – you know, the impact of the development itself that would require conditions – what might be required under section 94, or any instrument under LEPs and what have you; and then, separately to that, the public benefit that might be offered, which I think is often picked up in a VPA or whatever else, which is the extra over that says to the community, if you're going to increase the density, or do whatever
35 else, the benefit that you will get out of it – rather than just the impact of the proposal being addressed, and compliance statutory requirements – is going to be X. Does the department see any considerable public benefit in this that is actually identifiable and assessable that wouldn't fall under those first two categories? And, if so, what it is and how you've thought about it?

40

MS SARGEANT: Who's best to answer that question?

MR LUSHER: I can.

45 MS LEESON: Because this will - - -

MS SARGEANT: Yes?

MS LEESON: - - - be an issue for the community - - -

MR LUSHER: Yes.

5 MS LEESON: - - - given the degree of objection and interest in this project. I think we want to really understand what that public benefit might be.

MR J. GROUNDWATER: I might answer this one. My name is James
Groundwater. I'm the senior planning officer at the department of Planning. I might
10 draw your attention to page 41 of the assessment report, where we talk about
developer contributions. So in addition to council section 94A developer
contributions that they're required to pay through the original approval, which will
be retained through this modification, we believe the proposal includes additional
public benefits such as the reconfiguration of the open space, increases the extent of
15 open space, but also the design almost doubles the publicly accessible open space to
the original approval.

In addition to that, the increase in floor space provides additional affordable housing,
and we considered the impacts associated with the proposal as amended to be
20 acceptable, and then in addition to that the proponent has also made a public benefit
offer of the \$500,000 towards the intersection upgrade at Willoughby Road,
Artarmon Road, Small Street. Despite having their own traffic assessment report
that has concluded that it does not have an adverse impact on that intersection to
warrant an upgrade – however, they have acknowledged the additional dwellings will
25 have additional traffic generation, and they've made an offer to contribute towards
any future upgrade of that road.

In addition to that, they've made a monetary – or offered a monetary contribution of
\$1 million towards a public access and bush regeneration works to the Walter Street
30 Reserve, to the read of the site. Originally, in the approval there is a condition
requiring them to provide an accessible bush track. They've come in with a quantity
surveyors report that said those works really equate to approximate \$300,000.

So they've offered \$1 million, which obviously – a greater amount of money
35 compared to what the condition was as a show of good faith as they were increasing
the density of the development. In addition to the four per cent of the residential
gross floor as affordable housing, they've offered an additional one per cent on top of
the four per cent of any floor space above the already approved floor space as
another offer of additional public benefits.

40

MS LEESON: Couple of follow-up questions to that, then. One is around the
intersection works. If it was – sorry. Can you explain what – describe what the
council's response to that was? Whether the council's assessment was the same as
the proponent's and the department's in terms of the need for it or otherwise. And
45 the second question will be around that public open space and the degree of
accessibility of that versus a sense of privatisation and how the development might
address that issue.

MR GROUNDWATER: The council's traffic report, in its assessment of what the traffic generation for the development was also included the traffic generation of all potential future redevelopment of the area and used that as a whole as to what the impacts on that intersection would be. The difference between council's traffic
5 report and the proponent's and the department's independent traffic report was they – the proponent and the department's traffic report said that, well, the future possible redevelopment of the area was more of a strategic approach, and that should – and looking at that in terms of future upgrade works would be more of a council and RMS, if they've rezoned the land to uplift density.

10 The impacts of all that redevelopment should be more of a strategic approach, rather than relying on a single development footing the works for more of a strategic approach to the area. So what the proponent's traffic report and what was agreed to by – in the department's independent report that, well, if there's known development,
15 take that into consideration as well as the impacts of the proposal, and they found doing that but excluding future redevelopment because of uplift in zoning that the impacts on the operation of the subkey intersection would remain at acceptable satisfactory levels and wouldn't require an upgrade.

20 MR LUSHER: So from that conclusion, the department took the view that when you consider the impacts associated with this proposal that traffic would continue to operate at a satisfactory level through that intersection without the need for an upgrade. So from that position we were able to ascertain that the money offered towards the upgrade of that intersection would constitute a public benefit.

25 MS LEESON: Would constitute – okay. Okay.

MR J. HANN: I've just got two questions – John Hann. Just on the – while we're on the traffic, just to be clear, then, the proponent's traffic assessment in yours – I
30 think it's Samsa; is that right?

MR GROUNDWATER: That's correct.

35 MR HANN: Yes. That included developments that have been approved but perhaps not yet completed – is that right – but not – it excluded any future possible developments, because there's a distinction there. Did it include developments that have been approached but have not yet been completed?

40 MR GROUNDWATER: My understanding is that it did include applications or development that it was aware of, and it did do a calculation of the traffic impacts.

MR HANN: Right.

45 MR GROUNDWATER: In terms of applications, I believe, under assessment and future possible redevelopment, it made a distinction between that that they would have their own traffic mitigation measures, and therefore it was inappropriate to include those.

MR HANN: Okay. All right. Now, that's fine. Just, then, on the matter of the contributions, how would – given that it's a VPA and it's voluntary, and there are some clear sections and clause within the Act as to how that works in relation to what would have been section 94 – I can't remember the current section in the Act –
5 so that's straightforward, but in terms of a voluntary plan – the voluntary part of it is pretty important, as you know, in terms of the legality of it. How does that work? Have you looked at that to see that it's actually a legally valid mechanism in terms of the half million and the million that's being offered. How does that work as being
10 voluntary?

MR GROUNDWATER: Well, with respect to, I guess, the voluntary component of it, I've sort of made some note in my assessment report that the proponent has come forward with the public benefit offer.

15 MR HANN: Right.

MR GROUNDWATER: It has tried to negotiate with counsel on a number of occasions prior to today. Council have stated that due to their public opposition to the proponent – proposal that they are not going to enter into a negotiation. We had
20 a meeting with council and explained that if there was no agreement reached and the IPC were of the opinion to approve the development, there's no then entering into negotiations and having a go.

So what we've tried to do is, as the proponent has voluntarily offered this public benefit offer, design the condition in such a way that if the IPC were of the opinion to approve the proposal, the council have an opportunity to either voluntarily accept the offer or rescind the offer and then move forward. So if they accept the public benefit offer, then they can go through the process of the VPA and the exhibition and the arrangement of preparing that document, or if they rescind the offer, then offer is
25 off the table.
30

MR LUSHER: So just to be clear, I think that what the department has sought to do in its recommendation is not to compel council to do – to enter into the agreement, but should they choose to volunteer to enter into it they can, but if not then they don't
35 have to. That's how we've designed the provision that we would put forward to the commission.

MS LEESON: Okay. So you have a protection in there to commit these two matters, and then there is a condition for council to accept a VPA which may contain
40 that or other things. Is that a reasonable understanding?

MR LUSHER: Not or other things. I don't – I think that - - -

MR ROBERTS: Yes. These offers – this forms part of the applicant's – or
45 proponent's public benefit offer, and it's that public benefit offer that's included in the condition for council to consider and either accept or decline.

MR HANN: All right.

MS LEESON: Okay. Thank you.

5 MR HANN: Thanks.

MR GROUNDWATER: Although the one thing I would add is if there – if the
commission was of the opinion not to impose the VPA condition, I would like to
state that there are FEAR 18 and FEAR 36 which would need to be reinstated which,
10 as the public benefit offers the \$1 million towards the bush regeneration – if,
obviously, that VPA was not to go ahead, then FEAR 18 is the original condition
requiring the accessible bush track, which would need to be reinstated, and also
FEAR 36 required the four per cent affordable housing, which was deleted because it
would be captured in the statement of commitments and the VPA, so they would
15 need to be bought.

MS LEESON: Okay.

MR GROUNDWATER: Yes.
20

MR LUSHER: Just to clarify for the record, FEAR is an unfortunate acronym for
Future Environment Assessment Requirement.

MS LEESON: It is a very unfortunate acronym.
25

MR GROUNDWATER: Yes.

MR HANN: Yes, no. Thanks, Ben. All right.

30 MS LEESON: Can – sorry, yes.

MR MILLER: Could I just go back to the Samsa report. Could you just take me to
where they say in the report that they took into account not only traffic generated
from the site but also from known developments in the area. It's probably here
35 somewhere, but I couldn't pick it up. Maybe you want to take that on notice and
give us - - -

MR GROUNDWATER: I might have to take that on notice.

40 MR LUSHER: It may be in the Samsa report itself.

MR MILLER: I've got the Samsa report.

MS LEESON: And if you can take that on notice - - -
45

MR GROUNDWATER: Yes.

MS LEESON: - - - that would be good, just in the interest of time. To the issue of the public open space and the reconfiguration of that to run through the centre of the site, quite broad, leading down to – I've forgotten the name of the park, now, at the bottom of the site, there appears to be a concern from the community and from
5 council that that space will essentially be deemed as privatised. I know there's a condition in there that says there will be a legal instrument to make sure that it is legally enforceable as open space, but from a design perspective about encouraging people to use that space, is the department confident that there is sufficient resolution of the concept design to make sure that it is attractive to draw the general public
10 through? Can you just talk to us about how you've considered that?

MS SARGEANT: Do we have any renders?

MR GROUNDWATER: We do. There are some renders. Sorry. I've got one of
15 each of you, but there's not much space.

MS LEESON: It's a relatively skinny table - - -

MR GROUNDWATER: Yes.
20

MS LEESON: - - - so it's hard to put too many things on.

MR MILLER: We may have it here.

MR GROUNDWATER: Okay.
25

MR MILLER: I'm not sure what we've got here.

MS LEESON: Okay. So we're looking at the photo montage, or I'm looking at the
30 photo montage as viewed from Artarmon Road.

MR GROUNDWATER: Yes.

MS LEESON: Is that the one you want to talk to?
35

MR HANN: So looking south from Artarmon Road.

MR GROUNDWATER: So looking south from Artarmon Road.

MS LEESON: Looking south.
40

MR GROUNDWATER: So in our consideration of the rearrangement or the orientation of the open space, in addition to this public open space provisions being supported by the government architect and council's own independent urban design
45 report, we believe that the width of the Village Green, which views down to the Village Lawn, provides a visual connection between Artarmon Road and the open space. Obviously, the details design of this space will be subject to future

development applications considered by council, but there is a visual connection between Artarmon Road and the public open space, which starts from Artarmon Road, continues all the way through to and then over the new portion of Scott Street to the rear. And there is another montage, I believe, just after the one, or at the bottom of the page, that sort of shows that the open space at the park, it has a frontage to a road and obviously has an outlook – improved outlook - - -

MR HANN: This is on the southern side of the site, is it?

10 MR GROUNDWATER: That's on the southern side of the site.

MS LEESON: Yes.

MR HANN: Facing towards Walter Street - - -

15

MR GROUNDWATER: Which will have a visual connection to Artarmon Road.

MR HANN: Okay.

20 MS LEESON: Yes.

MR GROUNDWATER: And, over time, this space – obviously, the community will know that this space is there and – I mean, not all parks are on public open – streets, and therefore we believe that this will still be viewed as publicly an open space.

25

MS LEESON: And the proponent has indicated in its staging diagrams, I think you have picked up as a proposed condition, that park – that connecting central park – the further stage 1.

30

MR GROUNDWATER: Yes. During the process of assessing the application, the staging did change, that the central open space connecting towards will be delivered as part of stage 1, so that there will be – as soon as stage 1 is completed, there is publicly accessible open space at that stage before stage 2 commences.

35

MR HANN: Was there any wind or solar, if you like, overshadowing study done in terms of amenity? In other words, if it's to be used - - -

MR GROUNDWATER: Yes.

40

MR HANN: - - - and a pleasant place to walk and sit, as shown here, ideally, in the photo montage, is – I didn't see any reference to it in your documents, but there may well be. I just want to know whether there were any studies that covered wind and so on, and overshadowing in this area.

45

MR GROUNDWATER: There was a solar analysis done as part of the original application that demonstrates that the publicly accessible open space will receive more than 50 per cent solar access between 10 and 1 pm.

5 MR HANN: Okay.

MR GROUNDWATER: In terms of a wind assessment, there is a statement of – in the statement of commitments there is a requirement for a wind assessment to be completed prior to future development – or to include it with future development applications.

10

MR HANN: Right. And, subject to that, then, it would be a matter of, what, mitigation with planting – tree planting and so on.

15 MR GROUNDWATER: Yes.

MR HANN: To make it an - - -

MR GROUNDWATER: And perhaps building design.

20

MR HANN: - - - acceptable amenity.

MR GROUNDWATER: Yes. And, yes, façade treatment and design.

25 MS LEESON: The proposed uses at ground floor, these images indicate probably some of the non-residential uses there as you walk down that open space area. Is the proponent committed to that as part of the concept plan? I know we're subject to further DAs. My question is around the level of commitment to that non-residential use at ground plane to help draw people through it and open up that sense of genuine public access.

30

MR GROUNDWATER: In terms of, yes, the locations of the non-residential use, the concept plan doesn't have a provision that requires it to be in a certain location. There has been some indication that the non-residential uses will be associated with, I think, the Village Square, which is at the corner of Artarmon Road and Scott Street. That's not to say that there wouldn't be provision of non-residential floor space elsewhere or potentially along Village Green. There is a requirement in the modified consent requiring the consideration of any interface between residential and the open space to ensure adequate privacy for those dwellings. And in terms of the exact location of non-residential floor space, will be subject to future assessment under future development applications.

35

40

MR LUSHER: Your question goes to the opportunity to activate the space - - -

45 MS LEESON: Yes. So these images are indicating activation of that space - - -

MR LUSHER: I'm not aware that there's a specific requirement for the location of that space through that corridor space, if that's - - -

MS LEESON: Okay.

5

MR LUSHER: - - - more precisely your question.

MS LEESON: Yes.

10 MR LUSHER: I don't believe there's a requirement, is there James?

MS LEESON: Okay. Thank you. No, that's - that's helpful. Thanks. Sorry. Thanks, James. Okay. I think, in the next level of questioning around some of the design parameters. You refer in the report to the ADGs. Is the department confident that all of the buildings, that the footprints comply with the ADGs in terms of separation?

MR GROUNDWATER: Yes. During the assessment, building separation was something that we did consider very carefully. There were some amendments made throughout the process to increase some building separation to ensure that future designs are capable of achieving compliance with building separations. Obviously, with regards to specific setbacks, they depend on whether or not the interfaces between habitable and habitable rooms, whether they're designed between non-habitable and habitable. So the proposed building separations provided in the amended proposal are all capable of achieving some form of compliance with the ADG.

MR HANN: What do you mean by "some form"?

30 MR GROUNDWATER: Well, it all depends on the final design. There are some components between - particularly between buildings G and F - - -

MR HANN: Yes.

35 MS LEESON: Yes.

MR GROUNDWATER: - - - that, along the upper floors, will need to have some careful consideration of how they're designed to ensure visual privacy and - - -

40 MR HANN: Yes.

MR GROUNDWATER: - - - separation is provided, obviously - - -

MS LEESON: Depending on the use, whether it's - - -

45

MR GROUNDWATER: Depending on the use.

MS LEESON: - - - a habitable room or something else - - -

MR LUSHER: That's right.

5 MR GROUNDWATER: Yes.

MS LEESON: - - - the guidelines will have different requirements.

10 MR LUSHER: So if they're both habitable spaces, obviously the guidelines recommend a greater separation, but if there's a non-habitable space facing a habitable space, it's a more concession separation requirement. So how the buildings are laid out internally will inform ultimately how that would actually operate, but we're confident it's capable of succeeding but it's a matter for more detailed consideration.

15 MR HANN: Okay.

MS LEESON: Okay. In terms of at the same level in regards to your confidence that future detail and design can resolve these things, the lowered courtyard seemed to be of some contention. Are you confident that leaving that to a future design detail between council and the proponent will get an acceptable outcome?

25 MR LUSHER: Yes. I think we are. And I think that the levels, whether it was the original application as approved or the current one – sought to change the levels on site in some way, shape or form, and we believe that when you're, you know, creating such a large, probably more formalised sense of open space – that there will ultimately be a change to the levels across the site. But, Dianne, if I can just clarify, are you referring to the courtyards that are the private courtyards - - -

30 MS LEESON: Yes.

MR LUSHER: - - - or the public spaces?

35 MS LEESON: Yeah. The private courtyard. Sorry. I mean, I understand why - - -

MR LUSHER: Okay. Sorry. Yeah. Yeah. So – yeah.

MR HANN: Fronting Artarmon Road particularly - - -

40 MS LEESON: Yes. That's right.

MR HANN: - - - I think it is, building A and B.

45 MR LUSHER: Sorry. I have to clarify my response. We weren't confident on that front, that those – that that design would succeed. So we've sought to, I guess, temper that design approach - - -

MS LEESON: Yeah.

MR LUSHER: - - - somewhat in our assessment. James, did you want to speak to the detail of that?

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MR GROUNDWATER: Yes. We had concerns with regards to maintaining an appropriate character with the area, as well as the amenity of those units. Therefore, we have recommended a future environmental assessment requirement, number 3, which was to include further consideration of any appropriateness of those level changes. In regards to building B, given the – sort of the topography of the site – Artarmon Road, at that point, is fairly steep. There was always going to have to be some – some level changes to accommodate a built form on that – along that frontage. However, given the proposal sought envelopes and RLs and didn't have, I guess, a set finish levels at those points – they were just indicative at that stage. We weren't confident that the level of detail provided would result in an appropriate sort of frontage there. So we did recommend that that level of detail would have to be provided at a future development application stage - - -

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15

MR HANN: All right.

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MR GROUNDWATER: - - - before level changes would be - - -

MS LEESON: And that seems to be a result of the proponent endeavouring to stay below the RL 105 but still get the yield out of the development. So sinking the – well, not sinking but, you know, lowering those buildings and then having to deal with bulk and visual impact results in these sort of lowered courtyards that need further resolution. Is that a fair statement?

25

MR GROUNDWATER: Well, building A is well below the 105.

30

MS LEESON: Yes.

MR GROUNDWATER: I mean, they're sort of sunk at – I think the lowest point is about 2.2 metres, and they're at RL 94.8. So it essentially – what it was – it was to try and retain that form, that lowered form, around the street edge - - -

35

MS LEESON: Yes.

MR GROUNDWATER: - - - to transition to the lower-scale development by allowing, obviously, the additional yield that they were seeking.

40

MR LUSHER: So the information that we were - - -

MS LEESON: Okay.

45

MR LUSHER: - - - presented with implied that that corner of the site, if you like, between building A and the street frontage – there'd be quite a considerable

continuous scoop out of the frontage, and we did have a concern with that, which is why we've put the future environmental assessment requirement, as James referred to, number 3, to enable council to consider that in more detail and enable them to take a proper view - - -

5

MR HANN: Yeah.

MR LUSHER: - - - with all the detailed information in front of them to work out whether that would be, in fact, appropriate or, if not, what would be appropriate.

10

MR HANN: All right.

MS LEESON: Okay.

15

MR HANN: Okay.

MS LEESON: John, any more issues?

20

MR HANN: I – just back to traffic, I couldn't see any reference to the likely traffic demand related to the child care centre. Is that something that you've considered? You have any metrics on that.

MR GROUNDWATER: With regards to the proposal, it seeks to have child care as a use - - -

25

MR HANN: Yes.

30

MR GROUNDWATER: - - - not seek approval for a child care centre. We have amended future environmental assessment requirement number 33 that requires a traffic study specifically for a development application seeking child care as a use. At this stage, it's just seeking it as a permissible use. May not eventuate. However, we've covered that through the modification – FEAR 33.

35

MR LUSHER: So what, in fact – the operation of this element of the proposal really just seeks to have child care centres as a permissible use on this site, which is – brings it into line with the surrounding land use zoning in the residential area. Yeah.

MR HANN: Yeah. Yeah. No. I understand.

40

MS LEESON: Yes. Yeah. Okay.

MR HANN: All right. And any future application will deal with the traffic impact - - -

45

MR LUSHER: That's right. Yeah.

MR GROUNDWATER: That's correct.

MS LEESON: In its own right.

MR LUSHER: Yeah.

5 MR HANN: - - - and what may need to be done to mitigate it.

MR LUSHER: And look at – that’s right.

MR HANN: Okay. No. That’s fine.

10 MS LEESON: Okay. I understand that. Any other questions from you, John, for the moment?

MR HANN: I was just going to ask for a little bit more – well, you’re – a little bit
15 more explanation around the solar – the overshadowing, if you like, on the southern side of the site, and there’s, I think, an improvement by one dwelling, in terms of there were five that were not meeting the standard at the winter solstice. Is that right? But it’s now four, but I just wanted to ask your view as to, you know, that you’re satisfied that this is an improvement on the concept plan and that it’s an
20 acceptable position.

MR LUSHER: Well, James can go into further detail, but, simply by that metric, John, yes, we are satisfied because it’s – presents an improvement from what is already approved.

25 MR HANN: Yes.

MR LUSHER: So the department, the then PAC, has already taken a view that that’s - - -

30 MR HANN: Right.

MR LUSHER: - - - an acceptable level of solar access impact. This presents a lesser impact.

35 MR HANN: Yeah.

MR LUSHER: So we therefore considered it to be acceptable.

40 MR HANN: All right.

MS LEESON: Okay. Against the original approval.

MR LUSHER: Yeah.

45 MS LEESON: Yep, okay.

MR GROUNDWATER: I mean, would you like me to go into little bit more detail?

MR HANN: Look, if you wouldn't mind, just very briefly, so we can - - -

5 MR LUSHER: Yeah. Okey-doke.

MR GROUNDWATER: Okay.

MR HANN: Because it's an – it's clearly an important issue from a community
10 point of view, and so it would be beneficial for us to understand.

MR GROUNDWATER: Yeah. The – so the department acknowledged that solar
access, particularly along the Walter Street development, was an important issue, not
15 only for the existing development - - -

MR HANN: Yeah.

MR GROUNDWATER: - - - but the approved development that occurs.

20 MR HANN: Yes.

MR GROUNDWATER: So if I refer to page 30 of the assessment report, in terms
of those five dwellings that you made reference to, that refers to receiving solar
access to the principal open space at the rear, which - - -

25 MR HANN: Right.

MR GROUNDWATER: According to the approval, most – some of them didn't
receive any solar access. However, the proposal, in fact, to two of those improves
30 the solar access and maintains the remaining three. In fact, there are only – in terms
of the proposed development, there are only two dwellings, number 25 and number
17, along Walter Street, that will actually have an additional impact. Although they
still comply with council's three-hour - - -

35 MR HANN: Yeah.

MR GROUNDWATER: - - - DCP control, I would also like to point out that those
two particular developments also have approval for demolition and construction of
residential flat buildings along Walter Street.

40 MR HANN: Okay, yeah. All right.

MS LEESON: Right.

45 MR GROUNDWATER: We've also done an assessment of the impacts on the
approved development. We've now moved over to the ADG requirement to ensure
that those buildings receive a minimum of 70 per cent solar access, which all the

approved development that are affected by the proposal maintain either 70 per cent or more. Some of them actually achieve 90 per cent two hours of solar access - - -

MR HANN: Okay.

5

MR GROUNDWATER: - - - in accordance with the ADG. So we've done an assessment against existing if those approvals don't go ahead versus what would happen if those - - -

10 MR HANN: Okay.

MR GROUNDWATER: - - - approvals did go ahead, and, in both scenarios, the proposal is an improvement.

15 MS LEESON: Okay.

MR HANN: Yeah. No. Look, that's helpful. No.

MS LEESON: Yeah.

20

MR HANN: Thanks, James.

MS LEESON: Thanks.

25 MR GROUNDWATER: Also like to point out that, of four dwellings in the Castle Vale development to the east that were affected by the proposal, only one is now non-compliant - - -

MR HANN: All right.

30

MS LEESON: Yes.

MR GROUNDWATER: - - - with the ADG, compared to before, as approved off the - - -

35

MR HANN: Being an improvement on the concept plan.

MR GROUNDWATER: Yes.

40 MR LUSHER: Yeah.

MR HANN: Okay.

MS LEESON: Thank you, James. Russell, you okay?

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MR MILLER: No. No further questions.

MS LEESON: Okay. John?

MR HANN: No. Thanks.

5 MS LEESON: Look, I think that addressed the key issues that we've got at the moment. If we have – sorry. David, from the secretariat's point of view, is there any – are there any issues that you would like to see us address?

MR D. KOPPERS: No. Thanks, Dianne.

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MS LEESON: No. Okay. Look, thank you for that. If we get more issues arise, we'll try and deal with them as we do our consideration. We've obviously got council and the proponent to talk to today. We'll – then we've got the public hearing in three weeks – two, three weeks.

15

MR HANN: 27th.

MS LEESON: 27th. We will tick-tack with the department as appropriate if we need some more advice. So, look - - -

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MS SARGEANT: Yes. Yes. No. Happy to take any questions that you've got down the track.

MS LEESON: Thank you. And if you can come back to us on that one - - -

25

MR GROUNDWATER: Yeah.

MR LUSHER: Yes. We can do that.

30 MS LEESON: That would be terrific.

MR LUSHER: Yep.

MR GROUNDWATER: Yes.

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MS LEESON: And if that goes back through David. Terrific. Thank you. Thank you for your time.

MR ROBERTS: Thanks very much.

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MS LEESON: We'll see how we go.

MR LUSHER: Thanks, Dianne. Thank you.

45 MS LEESON: Thank you.

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[9.19 am]