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TRANSCRIPT OF PROCEEDINGS

TRANSCRIPT IN CONFIDENCE

O/N H-972074

INDEPENDENT PLANNING COMMISSION

MEETING WITH APPLICANT

**RE: STATE SIGNIFICANT DEVELOPMENT CONSENT 7064 FOR A MIXED-
USE DEVELOPMENT AT 175 TO 177 CLEVELAND STREET AND 1 TO 5
WOODBURN STREET, REDFERN**

PANEL: **STEVE O'CONNOR
WENDY LEWIN**

ASSISTING PANEL: **ANDREW McANESPIE
DAN KEARY
BRENT DEVINE**

APPLICANT: **AARON SUTHERLAND**

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

DATE: **10.38 AM, WEDNESDAY, 5 DECEMBER 2018**

MR O'CONNOR: Well, good morning and welcome. Before we begin, I would like to acknowledge the traditional owners of the land on which we meet and pay my respects to their elders past, present and emerging. Welcome to the meeting today on the application to modify state significant development consent 7064 for a mixed-use
5 development at 175 to 177 Cleveland Street and 1 to 5 Woodburn Street in Redfern. The modification application seeks approval for internal changes to the approved development including the following: an additional 280 square metres of retail and commercial gross floor area, layout changes to the approved retail or commercial tenancies, provision of a hotel reception area and additional residential communal
10 open space.

My name is Steve O'Connor. I'm the chair of the IPC panel. And joining me today on the panel is Wendy Lewin. The other attendees present today are Andrew McAnespie from the Commission Secretariat, Dan Keary and Brent Devine from
15 Keylan Consulting, who are assisting the Commission Secretariat on this project. It is in the interest of openness and transparency that we look to capture this information today. So this meeting is being recorded. And a full transcript will be provided and made available on the Commission's website. This meeting is just one part of the Commission's decision-making process. It is taking place at a
20 preliminary stage in the process and will form one of several sources of information upon which the Commission will base its final decision.

It is important for the Commissioners to ask questions of attendees and to clarify issues whenever we consider it appropriate. Therefore, if you are asked a question
25 and do not feel in a position to be able to answer it, please feel free to take the question on notice and provide any additional information in writing, which we will then place on our website. So that takes care of the formalities of the introduction. Aaron, I will just ask you to say who you are and who you represent. And then, as I
30 said, we will ask each of the people present to say who they are, which just helps with the transcript at a later stage.

MR A. SUTHERLAND: Great. Okay. Not a problem. So my name is Aaron Sutherland. I'm the Director of Sutherland & Associates Planning. And I'm the town planning consultant assisting the applicant with this project.
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MR O'CONNOR: Thanks very much, Aaron. Over to you Andrew.

MR A. McANESPIE: Andrew McAnespie, Senior Planning Officer IPC Secretariat.

40 MR B. DEVINE: Brent Devine, Keylan Consulting.

MR D. KEARY: Dan Keary, Keylan Consulting.

45 MS LEWIN: Wendy Lewin, IPC Commissioner.

MR O'CONNOR: And Steve O'Connor, IPC Commissioner. We've had the opportunity this morning, Aaron, to talk with the department and with council, who, as you know, have lodged an objection to the project.

5 MR SUTHERLAND: Yes. Yes.

MR O'CONNOR: So you're our final sort of external party that we're talking to.

MR SUTHERLAND: Okay.

10 MR O'CONNOR: We gave them the chance for a brief introduction. Would you like to say a few words just to sort of summarise where your client is at?

15 MR SUTHERLAND: Yes. Yes. Look, I mean, if you like, I will jump into, I guess, why the application was lodged and the justification for it.

MR O'CONNOR: Okay.

20 MR SUTHERLAND: And forgive me because you've probably heard some of this earlier on this morning. But, fundamentally, you're probably aware, there was an original application which was recommended for approval by the department. And the PAC subsequently refused the application for a variety of reasons.

MR O'CONNOR: Yes.

25 MR SUTHERLAND: Following that, there was a court appeal lodged and quite a lengthy negotiation process which ultimately resulted in a section 34 agreement with the Department of Planning. One of the – and quite significant reductions in the proposal through that process. One of the - - -

30 MR O'CONNOR: Can you just explain what those reductions were, given that Wendy and I weren't involved in that original Commission. It would be useful - - -

MR SUTHERLAND: Right.

35 MR O'CONNOR: - - - background information.

40 MR SUTHERLAND: I don't have the data in front of me, but it was, essentially, a storey was removed from virtually most of the development. And there was a reduction in the floor space ratio and also the number of hotel rooms and the residential units. So I think the residential units dropped from 27, from memory, down to 20. I can't recollect off the top of my head how many hotel rooms were reduced. But, essentially, that the bulk and scale of the development was reduced by, essentially, one storey across the site.

45 MR O'CONNOR: Okay. That's good. Thank you.

MR SUTHERLAND: Now, one of the consequences of the – I guess, the backwards and forwards that occurred through the section 34 process was a condition of consent which was finally imposed, which is condition – just bear with me. Just find the condition. Condition of B4(b), which was that the ground/level 1 floor plan is to be amended by the deletion of the door openings between the wine bar and the central courtyard. And the reason for that condition – it was understandable, frankly – which was there was concern about the acoustic amenity to future residents in the development from the wine bar having access to this outdoor terrace which sits centrally within the building. And I don't think – during the section 34 process there was no objection ultimately raised. There was agreement to that condition.

Subsequent to the approval, obviously, we've looked at the design and how we need to deal with that issue. And what it has, essentially, done is it has created an unresolved design element within the development, which is that you have this slightly undercroft outdoor space which is now sealed off from the wine bar and also it sits a level lower than the adjacent residential entry and what have you. And, clearly, that's a poor space, something that we needed to resolve in one way or another. We saw that there was an opportunity there to improve the residential amenity with that space.

And by extending the wine bar out and, essentially, enclosing that space and absorbing that space partially into the wine bar and then also partially into the retail tenancy, which was approved, at the north-western corner. And what that allowed us to do, by consolidating that area and turning into an internal space, it meant that the level above could become a far more generous open space setting for the residents. It's not the primary open space. The primary open space is still on the roof, where the it achieves quite positive solar access up there. But, nonetheless, that space now has been converted into quite a large garden area and a light court with seating provided for the residents.

So what that amendment has done is resolve this lower space, which we saw as potentially a dangerous space and then added amenity to the residential, as well. And then there are a number of reasons in relation to the variation to that arises from that as to why we support it. Would you like me to – those reasons are outlined in the department's assessment report. But, look, fundamentally, I guess, those reasons go to the fact that the additional FSR is purely a result of trying to resolve this space internally within the development. It doesn't increase the bulk and scale of the proposal. And, in fact, there's no possible way to perceive that change externally from the public domain.

But, notwithstanding that, the additional GFA is also absorbed into the non-residential components of the proposal. And, in fact, it restores – to some extent, restores the ratio of residential to non-residential to a manner which actually more closely reflects the planning controls of the two-to-one commercial and one-to-one residential. So, as a snapshot, they're the reasons for – you know, why we've arrived at this application and the basis for the variation to the FSR control.

MR O'CONNOR: Thank you, Aaron. Just a couple of questions I have just to start us off.

MR SUTHERLAND: Yes.

5

MR O'CONNOR: Firstly, it's – we note that there are a couple of voids that are now proposed which – apart from that courtyard you referred to – which are now
- - -

10 MR SUTHERLAND: Yes.

MR O'CONNOR: - - - proposed to be retail spaces. And there has also been a significant increase in the area of the wine bar. So it's a much bigger space than it was previously. Do you just want to comment on what the ramifications of that
15 might be for the development on this site.

MR SUTHERLAND: Well, first of all, my understanding is that some of those voids were initially thought to be necessary to create sufficient head height in the basement. Sorry. Did you hear me then?

20

MR O'CONNOR: Yes. Yes.

MS LEWIN: Yes.

25 MR O'CONNOR: I did.

MR SUTHERLAND: Yes. Great. Sorry. Yes. So my understanding was that they were there intended to provide sufficient head height in the basement. And following the approval, you know, the architects determined that in fact that's not
30 necessary. So what they amended is they, obviously, have a – they have been able to be converted into the wine bar space, which has increased the area of the wine bar. The application as initially lodged with the department actually sought consent for approval for the wine bar and included management, an acoustic report and I think a BCA report, as well.

35

And so the idea there was to provide complete transparency in relation to, you know, what the end outcome would be. The department took the view that they didn't feel that it was appropriate or necessary for them to deal with the actual fit out use component of the wine bar as part of this modification. And they thought that that
40 would be more appropriately dealt with as a subsequent development application to the City of Sydney. So there was detail there. So I guess that's going towards your question.

MR O'CONNOR: And has that subsequently happened, that further – you've got to get this modification sorted first.

45

MR SUTHERLAND: That's correct. Yes.

MR O'CONNOR: Yes.

MR SUTHERLAND: So no. So we, essentially, just withdrew that component of the application at the department's request.

5

MR O'CONNOR: Yes.

MR SUTHERLAND: And then the intention is that, you know, subsequent to the approval – well, if the panel is supportive of the application, then we would then go and lodge that with the City of Sydney. So in terms of the impacts of that space and how that space is to be managed, the department have sort of chosen to defer that to a subsequent assessment with the City of Sydney Council.

MR O'CONNOR: Yes. That will be something that council will have to consider and deal with.

MR SUTHERLAND: Will deal with. Yes. But, look, I mean, in terms of the application that we had, you know, we had an alcohol plan of management, the broader plan of management, as well. We went through details of hours of operation and what have you, but that has all been withdrawn from this particular application, so – so at this stage we envisaged that we would then deal with those operational aspects which will ultimately determine the final capacity of that space, as well, through a subsequent application with the council.

25

MR O'CONNOR: And just while we're talking about the wine bar, that increased area, there's not any proposal to increase car parking associated with this project, given that much bigger space?

MR SUTHERLAND: No, no. It's not. In actual fact, there was additional parking beyond what has ultimately been approved in the DA that was before the court. And it's quite unique, this site. There's no – there's no parking controls, so it's governed by the SEPP.

MR O'CONNOR: Yes.

MR SUTHERLAND: And not the council's DCP or the LEP. So in – well, not in theory. In practical reality, there's actually no planning restriction, as such articulated in any controls that apply to it, but nonetheless, obviously, the panel

would be well aware that the City has a maximum cap on parking in the LEP and a very well-known strategy to try and reduce parking provision in an effort to encourage alternative forms of transport. So we certainly didn't – well, frankly, we didn't see that if we had proposed additional parking that it would be supported - - -

5

MR O'CONNOR: Yes.

MR SUTHERLAND: - - - given what had happened through the court process. And beyond that, I guess, it's a wine bar so, you know, in an inner-city location, so we didn't think that was necessarily appropriate.

10

MR O'CONNOR: Okay. So the car parking is identical to that which the courts approved for this - - -

15

MR SUTHERLAND: Correct.

MR O'CONNOR: - - - revised project.

MR SUTHERLAND: Yes. That's correct.

20

MR O'CONNOR: Yes. I just wanted to be clear on that point. I thought that was the case. Wendy, do you have any questions of Aaron?

25

MS LEWIN: Aaron, I've just got one and it's more of a kind of global question about the scheme. Are you comfortable that your team can address the non-complying items that are identified in the BCA compliance assessment report prepared by AED and perhaps also others that might be identified subsequently?

30

MR SUTHERLAND: Look, I would assume so. I mean, I'm not a BCA consultant, and I won't profess to know the particular items that you're talking to. I understand there has been consultation between the architect and the BCA consultant in relation to the proposal, and there wasn't considered to be any fundamental issues that couldn't be overcome, but also – I mean, that's a prescribed condition, in any event, that we need to ensure that we comply with the BCA. So if there were any flow-on effects to that, I suppose, that would need to be resolved through a subsequent modification.

35

MS LEWIN: Right. Okay. Thank you.

40

MR SUTHERLAND: I'm not sure, Wendy, if that addresses your – was there a particular matter that - - -

MS LEWIN: Yes.

45

MR SUTHERLAND: - - - you might like me to respond to in more detail or - - -

MS LEWIN: Well, perhaps the architects would need to respond to it. In infilling or proposing to infill the courtyard with retail or the previous courtyard with retail use - - -

5 MR SUTHERLAND: Yes.

MS LEWIN: - - - it's introduced another fire – required fire stair to offer the second choice of exit.

10 MR SUTHERLAND: Right.

MS LEWIN: And in doing so, the – and in increasing the wine bar area and the – altering the access to the waste – commercial waste store, there seems to be an issue that might need resolution.

15

MR SUTHERLAND: Okay.

MS LEWIN: And it probably will be identified later in any CC, anyway. That the – the BCA – the BCA does not allow for anything other than three direct access items into a fire-isolated corridor or stair. And that doesn't include – they don't include any waste, because – or waste storage area, for obvious reasons.

20

MR SUTHERLAND: Okay.

25 MS LEWIN: And the path of travel would be compromised too for the retail exit and the wine bar exit.

MR SUTHERLAND: Okay.

30 MS LEWIN: So I'm just wondering whether everyone on your team is comfortable with that as part of the modification that we're considering.

MR SUTHERLAND: I think I might have to take up that opportunity you mentioned at the start, which is to take it on notice.

35

MS LEWIN: Yes. Okay.

MR SUTHERLAND: I've just been taking some notes now, and I'm looking at the BCA report. I can't give you an honest answer in relation to that, so I would need to consult with the architect and happy to respond with an email through whoever I should be responding to, but I'm certainly happy to give you a response to that issue.

40

MR O'CONNOR: Yes. If you could come back to Matthew in terms of providing some additional information around the BCA and fire issues. And, Wendy, did you also want to refer to that concern you had about the skylight and the - - -

45

MS LEWIN: Yes. In - the concern also includes the vertical skylight at the rear of the proposed - at the rear of the wine bar extension that goes to the eastern side of the garden - the planted area.

5 MR SUTHERLAND: Yes.

MS LEWIN: And is indicated as directly under the line of the window boxes that project from the hotel rooms.

10 MR SUTHERLAND: The hotel rooms.

MS LEWIN: So there are three of those windows, and - - -

MR SUTHERLAND: Okay.

15

MS LEWIN: - - - in order to - for us to consider how that might work in reality, we would need to understand how those windows are going to be located in terms of height.

20 MR SUTHERLAND: Skylight and height. Okay. Yes. I can see what you're - I can look into that.

MS LEWIN: It affects the amenity of those rooms, too, and the viability of them, I suppose, in terms of the amount of light - unobstructed light that can enter those
25 rooms. So that would, I guess, be another one that you would address specifically with the architects.

MR SUTHERLAND: Yes. Just so I can be clear there, so that - my understanding is that skylight would sit - that's that long skylight for the - for the wine bar.
30

MS LEWIN: Yes.

MR SUTHERLAND: Sits at the RL of 23.6, which I think is the same as the light court there. The RL of the hotel rooms is - there's a floor level of 23, so what - what
35 would need to happen is - - -

MS LEWIN: There's a horizontal and vertical separation required from - - -

MR SUTHERLAND: Under the BCA.

40

MS LEWIN: Under the BCA.

MR SUTHERLAND: Okay.

45 MS LEWIN: And it - it will affect the design strategy, I would suspect.

MR SUTHERLAND: Yes. Yes. Okay.

MS LEWIN: So anything that affects - - -

MR SUTHERLAND: All right.

5 MS LEWIN: - - - the design strategy for this – that we should be considering in this modification, it would be very helpful for us to have some advice from you - - -

MR SUTHERLAND: Yes. Absolutely.

10 MS LEWIN: - - - prior to our decision. Thanks. Great.

MR SUTHERLAND: Okay. All right. I can arrange that today and send that through to Matthew this afternoon.

15 MS LEWIN: Perfect. Thank you.

MR O'CONNOR: That would be great. Thank you. I will just check and see if anyone else sitting around the table here, Aaron, has got any questions or comments they want to make.

20

MR KEARY: Yes. Aaron, Dan Keary here. You mentioned before that the department – when you originally lodged the modification application, you had a plan of management, etcetera, and you were seeking consent for the operation of a wine bar.

25

MR SUTHERLAND: Yes. That's right.

MR KEARY: Did you receive any formal correspondence from the department asking them to, you know, withdraw that aspect of the application?

30

MR SUTHERLAND: We had a meeting. I will just check my email now. I had – we certainly had a meeting with James Groundwater to discuss that. I'm just trying to check whether or not that was something he conveyed in an email or whether or not there was a phone call about it to arrange the meeting.

35

MR KEARY: Well, maybe if you want to check and take that on notice, too, Aaron?

MR SUTHERLAND: Yes. Yes. Absolutely. Yes.

40

MR KEARY: It would be interesting to actually just fully understand their reasons for that.

45 MR SUTHERLAND: Yes. Absolutely. I will – I will see if there is an email. I'm not sure if there was or not. There was certainly a meeting that was held in the department's office to discuss that issue in particular.

MR KEARY: Okay.

MR SUTHERLAND: So I can – I can send you an – I can outline that in the email back to Matt. I will just take a note now. Correspondence.

5

MR KEARY: Thanks.

MR SUTHERLAND: And, at the very least, I will give you the date of the meeting, as well.

10

MR KEARY: Yes. Yes.

MR SUTHERLAND: Okay. Perfectly happy to reinstate that part of the application if it pleases the panel.

15

MR KEARY: I didn't say that. I was just - - -

MR O'CONNOR: You'd rather deal with us than Sydney City Council, I suspect, Aaron.

20

MS LEWIN: It's very cheeky.

MR SUTHERLAND: Sorry. Say again, Steve?

MR O'CONNOR: You would probably prefer to deal with us than Sydney City Council with that application.

25

MR SUTHERLAND: Look, I think so, but hopefully, you know, with the substantial DA in place, that should be a fairly procedural application.

30

MR O'CONNOR: Yes.

MS LEWIN: Aaron, just a quick question. You were saying earlier that the bulk and scale of the development was reduced across the site.

35

MR SUTHERLAND: Yes. Correct.

MS LEWIN: In what way? I think the – were the RLs for the top of the building altered in any way, or is it set-backs that you're referring to?

40

MR SUTHERLAND: No. Look, essentially, there's a storey removed. So there's a previous approval on the site – or current approval, I should say, for a student housing development which I was involved in, as well. The subsequent DA which was lodged and supported by the department adopted a very similar – in fact, an improved – substantially improved façade. But that came in at slightly under the RL that has already been approved on the site. But there was an FSR variation proposed, and concerns from the PAC.

45

MS LEWIN: Yes. Okay.

MR SUTHERLAND: You know, and the PAC formed the view that ultimately the application wasn't acceptable. Then through the process of section 34 conciliation, it
5 was essentially an entire storey removed off from the development around there, so – and there was the view that the – the buildings on either side along Cleveland Street have a four-storey street wall and this application should similarly have sort of a four to five storey street wall.

10 MS LEWIN: Okay. Thanks.

MR SUTHERLAND: So, yes, fundamentally, around about a storey that was taken off.

15 MS LEWIN: Okay. Thank you.

MR O'CONNOR: Thanks, Aaron. I don't think there's anything further we have in terms of questions, so - - -

20 MR SUTHERLAND: Okay.

MR O'CONNOR: - - - we will leave it now unless you've got any questions or last comments you want to make, and we will look forward to receiving that additional information from you. It doesn't have to be today. If you can get it, say, by the end
25 of this week, that would be fine from our perspective.

MR SUTHERLAND: Okay. Sure.

MR O'CONNOR: Thanks very much for your time, and you will hear of the
30 outcome in due course.

MR SUTHERLAND: Okay. Look, the only comment I would like to close with is – I mean, in relation to the FSR issue, if the panel form the view that that wasn't acceptable for whatever reason, I mean, ultimately, we would still be proposing that
35 ground floor – revised ground floor arrangement for the – for the residential component because clearly that closes in that space and it provides much more generous space for the residents. And ultimately, I guess, that space below it would become a void, in any event, which could potentially be used for plant, which wouldn't attract GFA. So I guess I wanted to emphasise that point that that would be
40 an alternative outcome, and then when comparing the proposal to that, you know, we say that there's – there would be no reason to leave that space empty as a void when it can assist with the rationalisation of the wine bar and the retail tenancy, you know, without any adverse impact that we can see. So I just wanted to leave that last
45 comment with you.

MR O'CONNOR: Okay. That's understood.

MS LEWIN: Thank you.

MR O'CONNOR: Thank you very much, and we will be in touch.

5 MR SUTHERLAND: Great. Thanks for your time, and I will get that response to you as soon as I can.

MS LEWIN: Thanks, Aaron.

10 MR O'CONNOR: Good luck in court.

MR SUTHERLAND: Great. Thank you. Thank you.

MR O'CONNOR: Okay. Bye.

15

MS LEWIN: Bye.

MR SUTHERLAND: Okay. Bye now.

20 MR KEARY: Thanks, Aaron.

MR SUTHERLAND: Bye.

25 **MEETING CONCLUDED**

[11.03 am]