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O/N H-983622

**INDEPENDENT PLANNING COMMISSION**

**MEETING WITH DEPARTMENT OF PLANNING AND ENVIRONMENT**

**RE: SHELL COVE BOAT HARBOUR PRECINCT CONCEPT APPROVAL**

**PANEL:**

**STEVE O'CONNOR  
ILONA MILLAR  
PETER COCHRANE**

**ASSISTING PANEL:**

**DAN KEARY  
BRENT DEVINE  
ANDREW McANESPIE**

**DEPARTMENT OF  
PLANNING AND  
ENVIRONMENT:**

**ANTHONY WITHERDIN  
MICHELLE NILES**

**LOCATION:**

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

**DATE:**

**8.59 AM, THURSDAY, 24 JANUARY 2019**

MR S. O'CONNOR: 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 the elders past, present and emerging. Welcome to the meeting today on a request seeking to modify the concept plan approval for Shell Cove Boat Harbour Precinct located at Boollwarroo Parade, Shell Cove in the Shell Harbour Local Government area. The proposal seeks approval to: number (1) increase the number of dwellings from 1238 to 1566 dwelling; (2) revise the housing density, typology and building heights in certain areas of the Boat Harbour Precinct; amend the hotel building by relocating it to the northern edge of the town centre and increasing its maximum building height from a maximum of nine storeys to 11 storeys; and finally (4) revise the road layout and pattern.

My name is Steve O'Connor and I'm the Chair of this IPC panel. Joining me on the panel this morning is Ilona Millar and Peter Cochrane – Ilona and Peter. The other attendees today are Andrew who you obviously know from the Commission Secretariat and we're also assisted by Dan Keary to my right and by Brent Devine on my left from Keylan Consulting who are assisting the Commission Secretariat on this project. 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. The meeting is one part of the Commission's process providing advice.

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 advice. It's important for the commissioners to ask questions of attendees and to clarify issues whatever – sorry, whenever we consider it appropriate. If you're asked a question and you 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 on our website. We are now ready to begin and I might just go around the table starting with Dan and just ask you to introduce – sorry, say your name. This is mainly for the voice recording purposes, so, yes, it's clear who's present at the meeting. Thanks Dan.

MR D. KEARY: Dan Keary.

MR P. COCHRANE: Peter Cochrane.

MR O'CONNOR: Steve O'Connor.

MS I. MILLAR: Ilona Millar.

MR B. DEVINE: Brent Devine.

MR A. McANESPIE: Andrew McAnespie.

MS M. NILES: Michelle Niles.

MR A. WITHERDIN: And Anthony Witherdin.

MR O'CONNOR: Okay. Over to you.

5 MR WITHERDIN: Okay. So I will open with a brief background of the site in the  
adjoining harbour development. So planning for the redevelopment of the site  
commenced back in the 1970s when studies were undertaken to identify additional  
boating facilities within Illawarra LGA – or in the Illawarra region, sorry. And  
following a number of studies and a commission of inquiry, the then Minister for  
10 Planning approved the Shell Cove Boat Harbour. And the Shell Cove Boat Harbour  
is currently under construction. After that approval, the land surrounding the harbour  
which is subject of this particular modification was identified as an urban release  
area. And in 2011, the Minister – the then Minister approved a concept plan for the  
redevelopment of the site which included a new town centre, a business park and  
15 over 1200 new dwellings.

Now, just to get a familiarisation with the site, if you turn to page 3 of the  
department's assessment report, you can see the surrounding land uses. So the north  
is the Shell Harbour Village and residential development. To the west is the suburb  
20 of Shell Cove and with a residential area in there. To the south is the Killalea State  
Park and to the south west is the Bass Point Quarry. So the current proposal, as  
mentioned earlier, seeks approval to increase the number of dwellings from 1238 to  
1566. It also seeks approval to reconfigure the town centre and relocate the hotel  
building and to increase building heights across the site. The department exhibited  
25 the proposal for an extended period and we received over 200 submissions, most of  
which objected to the proposal.

In terms of the key assessment issues, the department considered the key issues  
associated with this proposal included density, the increased building heights, view  
30 loss and potential traffic impacts. In terms of density, the proposal seeks approval  
for about a 26 per cent increase in the overall density of the development. From a  
strategic planning perspective, the department considers the increase in density is  
acceptable as it's consistent with the Regional Plan which seeks to encourage more  
housing and job opportunities in the area. It's consistent with the underlying median  
35 density zoning and town centre site and it's reasonably close to public transport with  
a train station located further to the west of the site. So from a strategic planning  
perspective, the department considers it was consistent with all the relevant strategic  
planning work for the framework for that site.

40 The department also considers that the site is well suited to support additional  
residential density as the site has got good access to services as it accommodates its  
own town centre. And the site enjoys good amenity being close to a new harbour  
and close to a beach. Also most of the additional density will be located within the  
middle of the site which means there's little to no adverse impacts to the directly  
45 adjoining neighbours. And finally, traffic generated by the proposal can be  
accommodated within the existing road network. I note some concern was raised  
about the lifting of the gross floor area limit that currently controls density on the

site. That has been replaced with a maximum dwelling number and the height of buildings should adequately cover and limit the amount of density that can be developed on the site through future DAs with council. So putting all that together, the department was quite satisfied with the level of density that was proposed.

5

In terms of increased building heights, if you turn to page 17 within the department's assessment report, figures 7 and 8 provide a good indication of where the increased building heights will occur. The key changes relate to the hotel building increasing in height from nine to 11 storeys. Some building envelopes within the middle of the site and adjoining the harbour indicated in green on figure 8 with an increase from four to five to six storeys and there will be some additional height just to the north of the town centre where some building envelopes will increase from three to four storeys.

10

Also it's important to note that some of the development areas closer towards the beach front and to the south of the site will actually reduce from three to two storeys in height. And in terms of the department's findings about the proposed height, the department considers that the proposed height is acceptable as the increased height generally occurs well away from the site boundaries and it's located centrally within the development site. It's limited to two additional storeys at most and the additional height is offset by some reduction in height in other parts of the site. The department was also satisfied that the proposed increase in height won't impact on any adjoining neighbours.

20

We have, however, made one recommendation in terms of reducing the height of some buildings and those buildings are the three storey buildings on the very extreme north on part of the site where it joins two storey residential developments. We thought it would be better to create a more appropriate height transition at that far northern end of the development site, so we've recommended a condition reducing the height of those buildings to two storey at that interface. But overall, the department was satisfied that the increase in building heights were reasonable.

25

30

MR O'CONNOR: Could you just clarify where that is on the plan.

MR WITHERDIN: Yes. For sure. So just for the record, I'm just indicating on figure 7 where that recommendation to reduce the three to – the building height from three to two storeys is and it's just in those two locations there.

35

MR O'CONNOR: Fine. Thank you.

40

MR COCHRANE: Steve, a quick question. Does that change the number of dwellings in any way?

MR WITHERDIN: No. So it will in that particular location, but across the entire site, I would expect that any reduction in dwellings will be accommodated elsewhere within those building envelopes. A view loss was another key concern raised by residents and the department requested the proponent to prepare a detailed visual

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impact assessment of the proposal so that we could undertake a really detailed look at how the proposed proposal would impact on people's views compared to what was already approved. And if you turn to pages 23 and 24 of the department's assessment report, on figures 14 to 17, it shows the before and after images of the  
5 proposal and the impact that it will generate on people's views, so the top images of the approved concept plan and the below images of the proposed. So if you look in the first image at location 2, you could see that the – any view loss impacts will be negligible and in some instances, they will be improved because of the redesigned envelope of the hotel.

10

In the next image at location 6, you can again see that the view loss impacts will be negligible and, in some cases, improved. And if you turn to page 24, it's a similar case for location 7 that any view loss impacts will be negligible. And on the final  
15 image at location 8, this is probably the most affected known residence and you can see to the – on the bottom image, to the left of that image, there will be some minor view loss impacts where the views towards the horizon are impacted by the location of the hotel and the increase in some of the height of buildings. But on the other side of that image, there will be a minor gain in views towards the ocean where the hotel has been relocated. But overall, the department considers that the view loss impacts  
20 are negligible.

20

In terms of traffic impacts, since the original concept plan was determined the traffic generation rates that RMS use have been reduced. So when the traffic impacts associated with increased number of dwellings is calculated it would only result in a  
25 two per cent increase in traffic generation compared to the current approval which use the old rates. Therefore, the department considers that the proposal wouldn't result in any significant traffic impacts compared to what has already been assessed and approved. And we also note that council and RMS didn't raise any concerns about traffic impacts.

25

30

MS MILLAR: Could I just ask whether the RMS rates are specific to the Illawarra region or are they more general?

35

MR WITHERDIN: No, I don't think they're specific to the Illawarra region; more general and those rates are for development of this type – high density residential development. And there's a number of other issues that I'm happy to run through.

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MR COCHRANE: Just on traffic did they take account also of the traffic associated with the boat harbour or was it isolated just to the residential development?

45

MR WITHERDIN: So I believe – we can come back and confirm with you on that but it would have considered the cumulative impacts of all other developments within that area. Another issue for the department was the interface between the boat storage area and the residential development. There was the original requirement – there's an original requirement in the concept plan approval which requires an earth mound to be provided to manage the impacts of the interface between those  
developments.

MR O'CONNOR: Can – again, can you just refer us to the plan show - - -

MR WITHERDIN: Sure.

5 MR O'CONNOR: Show us the area we're talking about now.

MR WITHERDIN: It's probably best depicted in the assessment report on page 25 and 26 in figures 18 and 19.

10 MR O'CONNOR: And just in terms of the bigger picture where are we when we look at those figures there?

MS NILES: Yes. So you will – if you go to figure 5 on page 7.

15 MR O'CONNOR: Yes.

MS NILES: It has the – this is the diagram of the land uses proposed. The boat – marina commercial land use is highlighted in kind of that peach colour along the eastern side of the development so just about here.

20

MR O'CONNOR: I see.

MS NILES: Yes. And just south of that is the residential development directly adjoining.

25

MR O'CONNOR: Got it. Thanks. That's what was missing before so that's good.

MR WITHERDIN: So essentially the proponent sought to replace the required earth mound with a seven-metre acoustic wall.

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MR O'CONNOR: And why was that, do you know?

MR WITHERDIN: They've reconfigured the subdivision land and I think that configuration - - -

35

MR O'CONNOR: They needed the space.

MS NILES: Yes. They've indicated that an acoustic mound would result in loss of residential .....

40

MR O'CONNOR: Yes. Yes. Okay.

MR WITHERDIN: So the department considers that the acoustic wall would provide an adequate measure to address the noise and other land use impacts between those – between the residential land use and the boat storage facility. However, the department was concerned about the potential visual impacts associated with a seven

45

metre high acoustic wall at the rear of those residential properties that directly adjoin the boat storage area.

5 MR O'CONNOR: So just if I can clarify – the seven metres, is that when measured from the commercial side or from the residential side of that wall?

MS NILES: From the commercial side - - -

10 MR O'CONNOR: From the commercial side.

MS NILES: - - - ground so - - -

15 MR O'CONNOR: So it appears from the residential side as a three metre wall or - - -

MS NILES: It will be a five-metre wall on the residential side - - -

MR O'CONNOR: Five-metre wall.

20 MS NILES: - - - depending on the final levels on the site.

MR WITHERDIN: So to address the potential visual impacts associated with that the department requested that a five metre landscape buffer be provided so that it could screen and soften the appearance of that acoustic wall.

25 MR COCHRANE: And then there was some debate - - -

30 MR O'CONNOR: And that five metres occurs on the residential side, obviously - - -

MS NILES: Yes.

MR O'CONNOR: - - - to provide the visual barrier. Yes.

35 MR COCHRANE: And then there was some discussion as to who is responsible for that five-metre area – whether it should be attached to residential lots or - - -

MR WITHERDIN: Yes.

40 MR COCHRANE: - - - be sort of managed by someone else.

45 MR WITHERDIN: Yes. So the department's position on that is that the impact – the visual impact is generated by the boat storage area. So in the first instance they should be responsible for mitigating that impact. And if you provide the landscape buffer on the residential side that will mean that multiple owners are responsible for maintaining that.

MR COCHRANE: Yes.

MR WITHERDIN: And it would be harder for compliance to make sure that it's maintained in an acceptable manner.

5

MR COCHRANE: Yes.

MR WITHERDIN: So the department's position is that it should remain on the boat storage side.

10

MR O'CONNOR: And what does the department envisage that landscape buffer will comprise? Are we talking densely planted vegetation or is it still a usable space that residents can or other members of the public might be able to walk along or use.

15 MS NILES: We've – in the conditions we've recommended that it be appropriately landscaped to screen the wall from the residential properties so – yes.

MR WITHERDIN: And so this is a concept.

20 MS NILES: Yes.

MR WITHERDIN: So those details will be worked out by the developer and council during the assessment of future DAs. In terms of car parking the proponent wanted to specify specific rates for car parking. Council raised concern about that.

25 They considered that it would be more appropriately addressed at the future DA stage. The department agrees with that. Because the exact mix of land uses and GFA for those particular uses and in different locations is not yet known the department considers it's more appropriate to deal with that level of detail at the future DA stage.

30

Other issues included – we carefully looked at the overshadowing impacts of the proposal. Despite this being some minor additional overshadowing there's good levels of solar access to all the open space areas, foreshore walkways in the town centre in midwinter. There's no overshadowing impacts to adjoining residential properties and the department is confident that, subject to detailed design, good levels of solar access can be provided to dwellings within the site.

35

In terms of open space, the amount of public open space will stay the same. However, the department considers that the level of open space provided is acceptable, particularly given the publicly accessible foreshore areas, access to the beach, and we note that there's sufficient playgrounds and ovals located close by in other areas. And that's about it for the key issues that we considered. There's a few other issues there that I'm happy to speak about.

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45 MR O'CONNOR: No, that's great. Thank you, Anthony.

MR WITHERDIN: I'm happy to take questions.

MR O'CONNOR: That's a good general introduction. Well, we might move to questions that we might have. Would you like to start, Ilona?

5 MS MILLAR: Look, if I could just come back to the discussion around height – the change in height as a hotel has been raised as a concern in some of the submissions. Could you talk to why that change – you know, your views on that – that change in the height of the hotel site.

10 MR WITHERDIN: Yes. So in terms of the hotel the building height does increase and the location of the hotel has moved. The department considers that the height of that building is acceptable. The height increase and how the building is orientated now will actually reduce the view loss impacts to some of the adjoining neighbours so there's an improvement in that regard. In terms of overshadowing impacts the proposal still performs – acceptable. And in terms of the visual impacts and the character of the area the department considers it's a relatively minor increase in height and it's appropriate for a town centre development. So putting all those factors together the department considered that the height increase of the hotel was acceptable.

20 MR O'CONNOR: Just on that issue of height, can you just clarify for me, we seem to be moving from storeys to measuring height in metres but height in storeys is being retained. So just – there's a dual control, is there, so it will – for a particular precinct it will specify a height in metres but also a number of storeys that can't be exceeded and you will have both those controls you will have to comply with.

25 MR WITHERDIN: So a lot of public submissions raised concern about the height control only being specified in storeys. And there was some concern about the height of each storey being excessive. To address that issue the department requested that the proponent provide maximum building heights. And then we went back and checked whether or not the maximum storeys within that height limit was acceptable. And after looking at that in detail the department considered that the height of each individual storey was reasonable and overall it was acceptable. But providing an overall height in RL just provides some certainty for the community, is exactly what the height limit of the buildings will achieve. And that's particularly important when the community were raising concerns about potential ..... impacts and things like that.

40 MR O'CONNOR: Yes, I can understand the benefit of introducing the height in metres. I'm just a little bit confused why you would retain the storeys control as well when you've got a cap on the number of dwellings so it's not as if the density can be exceeded.

MR WITHERDIN: Yes.

45 MR O'CONNOR: It just seems cumbersome to have two controls over - - -

MR WITHERDIN: Yes. We feel that it can work – quite acceptable in there’s no real downside to having a height in metres and in storeys so in that regard we think it’s okay.

5 MR O’CONNOR: And just again on height, was there an issue raised by council about which definition of height, how you measure height, would be selected. Was that something that you could comment on or - - -

MS NILES: I might take that on notice.

10

MR O’CONNOR: Okay, if you can.

MR WITHERDIN: We will take that on notice and get back to you.

15 MR O’CONNOR: Because I’m pretty sure they did raise a concern and I wasn’t sure how valid it was but I appreciate your advice on which definition you’ve chosen and why.

MR WITHERDIN: Okay.

20

MS MILLAR: I think that came up in the submissions around the SEPP 65 floor to ceiling provisions as to different approaches. Next issue.

MR O’CONNOR: Yes. Definitely.

25

MS MILLAR: Okay. The water servicing provisions, it looks as if Sydney Water has suggested that the maximum dwelling number is 1422.

MR WITHERDIN: Yes.

30

MS MILLAR: Do you have any further information about how the system, you know, would be augmented to enable the upper dwelling cap to be achieved and what would be sort of associated with that.

35 MR WITHERDIN: Yes. So through the submissions process Sydney Water did identify that there was a lack of water and wastewater services to provide – to accommodate the 1566 dwellings. So they recommended a cap of 1422 dwellings and the department has recommended a condition which basically stages the development. So we discussed this issue with Sydney Water and following those  
40 discussions we were confident that adequate services will be provided in the future. It’s just a matter of when. And so we’ve just imposed a strict condition saying you can’t exceed 1422 dwellings until you’ve satisfactorily demonstrated that sufficient services are provided to reach that upper maximum limit. And following those  
45 discussions with Sydney Water the department was confident that those services can be provided in the future.

MR O’CONNOR: Very good. Thank you.

MS MILLAR: Just on the open space point, would you be able to just elaborate a little bit more around the justification for why, even with the increase in dwelling numbers, the open space amount can still stay the same.

5 MR WITHERDIN: Yes. So in terms of open space, the proponent did submit an assessment of the open space required in that area. And that assessment basically indicated that the proposal, even with the increased level of density would provide sufficient open space for the expected population on there and in fact exceed the – a  
10 minimum amount of open space that would be appropriate for that level of density. And so that was one factor the department considered in its assessment.

But as I said earlier, given the unique characteristics of this site being afforded with the amenity of the harbour and the beachfront the department considers the overall level of open space and amenity provided by that will result in a good outcome for  
15 future residents on that side. And the open space that's going to be provided, particularly in the town centre area, like key locations next to services and things like that, I think the quality of open space provided within this development is going to be really good as well.

20 MS MILLAR: Do we have – just in terms of then, I guess, private open space, particularly for the residential dwellings, do we have a sense of the size of the lots for those? Or is that still to be determined?

MR WITHERDIN: It's still to be determined. But, of course, for the lower density  
25 residential development on the outer parts of the site they will be accommodated by two storey dwellings and they will provide their own space.

MS MILLAR: I think that's probably it for me for now.

30 MR O'CONNOR: Thank you. Peter.

MR COCHRANE: Thanks Steve. What's the total area of the site when you talk about the open space being remaining at 8.9 hectares but I'm just wondering what proportion it is. I couldn't find anywhere which actually said what that eight-  
35 something hectares was of the total area. I'm just ..... get a sense of how big these things are. I think in the summary it says there's no change – yes:

*The provision of open space is 8.49 hectares.*

40 I just wondered what that is as a proportion of the total area because it does look on the – you know, the change, to be a little smaller and maybe it's just split into smaller pieces maybe in the new – the modification.

MR WITHERDIN: So I can't remember from the top of my mind what the actual  
45 - - -

MR KEARY: I think it's 100 hectares.

MR WITHERDIN: - - - area is.

MR COCHRANE: About 100.

5 MR KEARY: 100 hectares according to the statement.

MR COCHRANE: It is in there, is it?

10 MR O'CONNOR: It's probably in the - - -

MR COCHRANE: I must have missed it.

MR KEARY: Yes, 100-hectare precinct.

15 MR COCHRANE: Okay. All right. So it's about eight per cent. Okay.

MR O'CONNOR: Is that the documentation that ..... prepared with the - - -

20 MR KEARY: That's from the applicant's – that's from the approved concept plan.

MR COCHRANE: The original.

MR KEARY: Yes.

25 MR COCHRANE: Okay. Thanks. The area was originally used apparently as landfill and farming. Did the EPA make any comment about landfill and the sort of potential issues around what might come out of the landfill, you know, either during construction or subsequently because that has been an issue in a number of places.

30 MR WITHERDIN: So importantly with this proposal - - -

MR COCHRANE: Yes, I know. That's not the modification.

35 MR WITHERDIN: Yes. So, look, in terms of giving you a detailed sort of background on that I would have to come back to you but we can provide some information on that if that was something you're interested in.

40 MR COCHRANE: I suppose it's irrelevant to the current matter in front of us but - - -

MR WITHERDIN: Yes. So in terms of the current proposal, though, the development footprint doesn't change.

45 MR COCHRANE: Yes.

MR WITHERDIN: And so those - - -

MR O'CONNOR: Apart from the addition of the 6000 square metres.

MS NILES: Yes.

5 MR WITHERDIN: That's right. And there are – there is some expanded development footprints to the very north of the site but the proponent will have to demonstrate that they meet all the requirements of SEPP 55 and they will be picked up again in the assessment of future DAs by council.

10 MR COCHRANE: Actually there will be a potential impact and that is if there's – the hotel is a lot higher then presumably the foundations will go deeper. So there is a risk of disturbing soil or land beneath what was originally envisaged so - - -

MR WITHERDIN: Yes, yes.

15

MR COCHRANE: - - - that's probably something worth asking the EPA – or what we could ask the EPA about is whether that actually might intersect landfill.

20 MS NILES: There's conditions in the – there's existing conditions within the concept plan approval that requires detailed contamination reports be provided through the detail DAs to council for the precinct.

MR COCHRANE: Okay. All right.

25 MS NILES: So that will be reviewed at that point when they have the more detailed .....

MR COCHRANE: All right. That's their problem, not ours. All right.

30 MR O'CONNOR: And the design of footings is probably something that if there is an issue they will just have to look at different designs to - - -

MR COCHRANE: Yes. Yes.

35 MR O'CONNOR: - - - to accommodate the constraints that are there at the DA stage.

MS NILES: Yes. Once they know the final detail of the building about the proposing .....

40

MR COCHRANE: So one of – just on heights, one of – I think one of the objections or some of the objections mentioned that the land had actually been elevated somewhat during the sort of – and, therefore, there was a sort of an additional height element so it wasn't – it was above the new ground level as opposed to the old ground level. Is that a sort of reasonable criticism?

45

MR WITHERDIN: So we could confirm it with you but I don't think the actual ground levels are changing as part of this proposal. They are doing some works to establish ..... footprints on the site and compacting some of the areas.

5 MR COCHRANE: Yes.

MR WITHERDIN: But again if you look at the impacts associated with the proposal compared from what was approved to what's proposed now - - -

10 MR COCHRANE: Yes.

MR WITHERDIN: - - - despite whatever the levels are - - -

15 MR COCHRANE: The elevation is still the same in both cases. Yes.

MR WITHERDIN: We still think the height is acceptable.

MR COCHRANE: All right. I think they were my areas of uncertainty.

20 MR O'CONNOR: Thanks, Peter. We just mentioned the additional 6000 square metres which is to the north of the site and it's actually outside the original concept approval boundary. I've just got two questions in relation to that. Firstly, did the department look at the legal ramifications of including land outside the original approval in a section 75W modification application just from the point of view of  
25 making sure we're operating within the legislative framework we have to operate within.

MR WITHERDIN: I didn't get any formal legal advice on that point but 75W  
30 modifications can include additional areas of land but we could double-check that point for you if you like.

MR O'CONNOR: Yes. That would be good; thank you. And, secondly, when I've  
35 looked at the property descriptions in the existing concept approval and as proposed to be modified by the department there's no change in land description so I assume that means that parcel of land straddled the boundary previously. I just might get you to check that too because we're adding an extra 6000 square metres and not changing the property description. There has got to be a logical reason for that.

40 Now, the only other thing I would like to raise – and this is just to give you advance notice because obviously we're only at the beginning of the process of reviewing all the documentation we have and we're yet to have public meetings, etcetera, so I don't want you to race off and start to revamp some of the conditions but I just thought I would give you the heads-up on some of the things that I – if we get to that stage we might be coming back to you on.

45 MR WITHERDIN: Sure.

MR O'CONNOR: The first one was the property description in schedule 1 so - - -

MR WITHERDIN: Yes.

5 MR O'CONNOR: - - - you understand that. The second one on – I don't know if you've got a copy of that – of the draft modification instrument before you.

MR WITHERDIN: Yes.

10 MR O'CONNOR: But schedule 2 appears at the top of the page and I think it should actually appear about halfway down the page when you go back and look at where those definitions that come under schedule 2 – they're actually in schedule 1 of the original consents. That's just a minor thing.

15 MR WITHERDIN: Yes.

MR O'CONNOR: I note you've introduced a new definition for tourist and visitor accommodation which didn't exist under the current concept approval and I wondered in introducing that definition you haven't got definitions, for example, for  
20 apartments or for single dwellings or for medium density and they're all discussed in the concept approval documents. Why did you just pick one land use to add in; I guess that was my question, yes. Why not add a suite of definitions in or not have any definitions.

25 MR WITHERDIN: So the definitions for all the land uses will just rely on the definitions in the standard definitions for land uses.

MR O'CONNOR: Yes. Whereas this is not a standard definition.

30 MR WITHERDIN: No. So we can come back to you and confirm this but I think this was introduced at the request of the proponent because they wanted to provide a mix of uses within the hotel building but we will come back to you and confirm that point.

35 MR O'CONNOR: Okay. All right. You will note in B1, there's a (d) been introduced which is the mixed-use landmark hotel building. Again this is just a minor bit of presentation of the conditions but the – previously (d) was (e) and (e) was (f) so it might make more sense to introduce that as the final one because you haven't shown (e) and (f) as changing when they will be changing.

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MR WITHERDIN: Yes. We can mark those up.

MR O'CONNOR: And the only other comment was in relation to the maximum number of dwellings, just the way that it's worded. I understand exactly what's  
45 intended but the way it's worded sets the maximum at 1420 unless there's documentation from Sydney Water that a maximum of 1566 can be accommodated. It

doesn't actually say that the maximum then changes to 1566 so I just want to look again at how that's worded to make sure the intent is absolutely clear.

MR WITHERDIN: We can have a look at that.

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MR O'CONNOR: Yes. That finishes my comments. Dan, do you have anything you would like to ask?

MR KEARY: Yes, just a couple of fairly minor questions, I think, just going back to height and this issue of number of storeys and RLs. Is that something that you've addressed in the draft instrument? So, for example, new subclause 1(d) talks about the mixed hotel – land use – mixed landmark hotel building of up to 11 storeys so we're still talking storeys there rather than RLs.

10  
15 MR WITHERDIN: Yes.

MR KEARY: So how does that RL control come into play?

MR WITHERDIN: It's indicated on the - - -

20 MS NILES: On the - - -

MR WITHERDIN: - - - approved concept plans.

25 MR KEARY: On the plans.

MS NILES: Yes.

MR WITHERDIN: Yes.

30 MR KEARY: Yes. Okay.

MR WITHERDIN: And that's commonly how height is depicted on these large concept plan areas - - -

35 MR KEARY: Yes.

MR WITHERDIN: - - - rather than specifying a long list of - - -

40 MR KEARY: Okay. And just further to Steve's question about number 6, the maximum number of dwellings, at what point – is there a time limit or a time factor in that condition? I mean, if the proponent seeks to start constructing in accordance with this approval or submitting applications in accordance with this concept approval is there any bearing on having 1420 – 1420 dwellings available as opposed to 1566? I mean, should this be confirmed prior to any applications being approved under the concept approval? I mean, should the – should the ceiling be set before

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any further DAs are submitted or is this something that will just be sort of addressed through the ongoing DA process?

5 MR WITHERDIN: So future approvals need to be consistent with - - -

MR KEARY: The concept.

MR WITHERDIN: - - - the concept plan.

10 MR KEARY: Yes.

MR WITHERDIN: So council will be responsible for making sure that that 1420 dwellings is not exceeded until they can basically see that we've given written approval to exceed that.

15 MR O'CONNOR: Seek to be signed off on.

MR WITHERDIN: If you wanted to strengthen the condition we could look at that though.

20 MR KEARY: It's just – just a question of whether or not it's something that, you know, needs to be considered if there is a - - -

MR WITHERDIN: Yes. I'm happy to look at - - -

25 MR KEARY: You know, because typically these conditions have – you know, if you're talking about a traditional DA ..... prior to issue a construction certificate or occupation certificate these things need to be demonstrated to the satisfactory of the Secretary. It's obviously a different case here because we're talking of concept approval but it just occurred to me that it just left a bit of an open end in the process.

30 MR WITHERDIN: So certainly we can have a look at that and while I think the conditions should be satisfactory we can look at strengthening that to provide a timeframe around prior to the submission of a DA for any dwellings exceeding 1422 or something like that.

35 MR KEARY: Yes. Just one more question, Steve.

40 MR O'CONNOR: Sure.

MR KEARY: The parking rates too, you mentioned there was some discussion about whether or not to set parking rates at this stage or at the DA stage. Was any consideration given to if the parking rates do increase significantly the impacts that might have on overall traffic generation rates. Is that something that was considered or would that be something that would just be dealt with through the DA or the DAs at that time?

MR WITHERDIN: It can be considered again at the DA stage. But the assessment was – the traffic generation was assessed using the RMS traffic generation rates. And one of the important things with this development is that the retail and commercial GFA, that goes down so in that case – and which is a major traffic generator.

MR O'CONNOR: That's right.

MR WITHERDIN: So in that case we feel that any variations in car parking won't result in any adverse traffic generation rates but again council will assess that level of detail again at the DA stage and they will need to be satisfied that the level of car parking won't result in any adverse traffic generation.

MR O'CONNOR: Thanks, Dan. Brent, did you have anything you - - -

MR DEVINE: No, nothing to add

MR O'CONNOR: Right. Andrew? All right. I think that's all our questions. Unless you have any final comments you want to make we will call the meeting to a close and thank the department and finish the recording of the meeting. Thank you.

**RECORDING CONCLUDED**

**[9.44 am]**