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O/N H-1431110

**INDEPENDENT PLANNING COMMISSION**

**COUNCIL MEETING**

**RE: MORIAH COLLEGE REDEVELOPMENT (SSD 10352)**

**PANEL:** **PETER DUNCAN (Chair)**  
**ADRIAN PILTON**

**OFFICE OF IPC:** **KATE MOORE**  
**REBECKA GROTH**  
**LAUREN DONOHOE**

**COUNCIL:** **MITCHELL REID**  
**BEN MAGISTRALE**

**LOCATION:** **VIA VIDEO CONFERENCE**

**DATE:** **3.33 PM, WEDNESDAY, 31 MARCH 2021**

MR P. DUNCAN: Good afternoon and welcome. Good afternoon and welcome. Before we begin, I'd like to acknowledge the traditional owners of the land from which we virtually meet today and pay my respects to their elders, past, present and emerging. Welcome to the meeting today for the Moriah College Redevelopment  
5 Project. Moriah College is located in Queens Park approximately six kilometres south-east of the Sydney CBD. Consent is sought for a concept proposal for the redevelopment of the existing senior school campus and an increase in student numbers by 290 students staged over a 15 year period. Consent is also sought for stage 1 development works which includes an additional 160 students in kindergarten  
10 to year 12.

My name is Peter Duncan. I am the chair of the Commission panel. I'm joined by my fellow Commissioner Adrian Pilton. We are also joined by Kate Moore from the Office of the Independent Planning Commission and Rebecca Growth and Lauren  
15 Donohoe, consultants assisting the Commission. In the interests of openness and transparency and to ensure the full capture of information, today's meeting is being recorded and a complete transcript will be produced and made available on the Commission's website. This meeting is one part of the Commission's consideration of this matter and will form one of several sources of information upon which the  
20 Commission will base its determination. It is important for the commissioners to ask questions of attendees and to clarify issues whenever it is considered appropriate.

If you're asked a question and not in a position to answer, please feel free to take the question on notice and provide any additional information in writing which we'll  
25 then put on our website. I request that all members here today introduce themselves before speaking for the first time and for all members to that they do not speak over the top of each other just so that we can ensure the accuracy of the transcript. We'll now begin. Mitchell, would you like to start.

30 MR M. REID: Yes. My name is Mitchell Reid. I'm the executive manager of development assessment for Waverley Council.

MR DUNCAN: And, Ben, would you like to introduce yourself.

35 MR B. MAGISTRALE: My name is Ben Magistrale, I'm a senior assessment officer at Waverley Council and I have been responsible for Council's – overseeing Council's submissions in relation to this state significant development application.

MR DUNCAN: Thank you. Mitchell, I'm happy for you to go through the points  
40 that we've provided on the agenda. Your – generally, Council's response and your views to traffic and car parking, built form, visual amenity impact and biodiversity. So over to you.

MR REID: Okay. I mean, I might just – I might hand it over to Ben after I have an  
45 opening statement. I just want – I haven't had carriage of this matter leading up to this stage. It's been primarily Ben and our former director of planning Peter Monks

who has retired just very recently so I'm probably not quite as up to speed as Ben will be or as Peter would have been. But also, I've read the relevant documentation and read the report and I commend the report. It's an excellent report. I've been doing this for 34 years and it's one of the better reports I've seen in my time. Very  
5 succinct and covers all of the issues very well, I thought. The draft conditions whilst not according with our conditions, I think generally cover most of the issues that the Council has raised. I need to emphasise that the matters that were raised are matters raised by Council staff and not by the Councillors so those matters need to be taken  
10 in that context.

On the agenda we had the opening statement. Okay. With particular reference to the latest submission, Ben, do you want to start going through our submission – our latest submission to the IPC on this matter.

15 MR MAGISTRALE: Sure. So basically our last submission was dated on the 18<sup>th</sup> of January 2021 which was in response to a response from the applicant in response to the Department's additional information request. So we – if you have seen that submission, we've basically tabulated any kind of outstanding issues we had  
20 addressed initially in our submission dated at the beginning of 2020. The main – the prevailing issue was traffic and parking and that's the point of objection we made in our initial submission to the Department. In particular, the increase of student and staff numbers over the next 15 years as part of this concept proposal and we are generally satisfied with the way the Department of Planning have put forward conditions, particularly those conditions that stagger the growth of the school in  
25 terms of not just the timeframes, the milestones, but also contingent on the commitments set out in the green travel plan, particularly, the 10 per cent modal shift from private car use to other modes of transport.

And we have – I just briefly read the peer review of the traffic study that the  
30 Department commissioned and I note that the – that that peer review does say that that target is aspirational but it's good to see that the condition will now make that a mandated target and that is something that Council's very pleased about. I just note in the conditions and I'll specifically refer to those conditions so that we are all on the same page. So those are conditions A8 and A8 of the draft conditions of consent  
35 the Department have put together. There isn't a mention of staff numbers increase and I note that that's part of the proposal as well. I know it's students – gradually it'll be a 290 net increase but it would be interesting to see whether we could also incorporate staff as well in that condition and we did actually put forward a set of conditions of consent to the Department as part of our submissions and while most of  
40 those conditions weren't adopted and we do understand that the Department have their own set of conditions, it would be good to see if we could have also the staff growth – numbers growth as well, particularly given that the peer review of the traffic matters did mention that a lot of staff members do drive to Moriah College and would possibly park on the streets which is a big issue that our residents do have  
45 in relation to the existing college as well as the proposal.

MR REID: Just to bring the panel's attention to it, condition 54 of the draft the Council provided.

MR DUNCAN: Okay. Thank you.

5

MR MAGISTRALE: Yes. So that's – yes. Sorry. So if you've been given our conditions, yes, as Mitchell said, it's condition 54 of our set.

MR DUNCAN: Okay. Then we'll note your comment on that and we'll look at that as we go through the process.

10

MR MAGISTRALE: Sure.

MR DUNCAN: Okay. Thank you.

15

MR MAGISTRALE: Sure.

MR DUNCAN: Keep going.

MR MAGISTRALE: Okay. We did raise other issues that I guess – those other agenda points such as built form, visual amenity. We understand the statutory controls of our height and floor space development standard's overridden by the educational establishment set and we are – while we did have an initial objection to the height from a visual amenity but also our heritage adviser did mention that that would have an impact on the Centennial Park and Queens Park sort of curtilage areas, we are pleased that the appellant did – during the course of the assessment did amend the design such that the upper floor level is now set back and recessive.

25

And also in terms of the materiality, we're pretty pleased with that and another point of view – another issue was the biodiversity, specifically, the impact on the Eastern Suburbs Banksia Scrub. So there is – I note that here's a vegetation management plan that's been drafted. We have had our Council expert review this vegetation management plan and we have attached their commentary to subsequent submissions that we've made to the Department. We are pleased that the conditions recommended in relation to the vegetation management plan and also landscape plan do require consultation with Council. So we welcome that and we would engage our – we would refer that to our biodiversity officer to do that consultation given that they've got those expertise. Yes, sorry?

30

35

MR DUNCAN: No. That's fine. Thank you. Keep going.

40

MR MAGISTRALE: They were the prevailing issues in our – we did have other issues we raised, but they were the prevailing issues we raised in our submissions. We have – more or less in terms of our latest submission, we have mentioned whether issues have been addressed and for the most they have, particularly with parking and that we're very pleased that the Department has adopted the staggering

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approach in terms of the growth contingent on the successful implementation of the green travel plan.

5 MR DUNCAN: Good. Thank you. That's helpful, Ben. Adrian, do you have any questions at this stage?

MR REID: No. Sorry, I don't have anything else.

10 MR DUNCAN: No. I think you've covered everything fairly well for us. Mitchell, is there anything you'd like to add at this point?

MR REID: Just a couple of the conditions that we didn't necessarily agree with the Department's assessment report.

15 MR DUNCAN: Yes.

MR REID: One was the construction hours that the applicant proposed and that the Department assessment report's adopted, that is, condition F7 in the Department's assessment report which has construction hours between 7 am and 6 pm Monday to  
20 Fridays and 8 am to 5 pm on Saturdays. Our standard condition that Waverley and I think most Councils apply is what number in hours, Ben?

MR MAGISTRALE: It's – yes. Hang on. I know the hours but I just - - -

25 MR REID: It's our - - -

MR MAGISTRALE: It's 7 - - -

30 MR REID: - - - draft condition 30 - - -

MR MAGISTRALE: Yes.

MR REID: - - - which is our normal hours are 10 to 5 pm Monday to Fridays and 10  
35 am to 3 pm on Saturdays.

MR MAGISTRALE: Saturdays. Yes.

MR REID: So ..... we would invite the IPC to have a look at – like you to have a  
40 look at to determine what's most appropriate for this site. There was also, Ben, the plan of management condition.

MR MAGISTRALE: Yes, yes.

45 MR REID: Do you want to talk to that.

MR MAGISTRALE: Yes, sure. So as part of a 2017 consent that we – for the early learning centre – that's just the change of use of a demountable into an early learning

centre pre-school – we did require the college to provide us a comprehensive plan of management and list all of the – the hours, activities in an appendix to that plan of management and that any additional activity that’s not captured in the existing schedule is to be applied to through us, the development assessment team at Council,  
5 but we wanted to stress the fact that the principal criterion for any out of hours activity that it is ancillary to school use. So we have identified a couple of events that we still see in the plan of management as submitted in this SSD.

Those are – and I’ve actually numbered them in the schedule. So it’s number 53  
10 which is a year – kindergarten to year 2 sausage sizzle and movie night. Also, number 63 which is the Moriah College community celebrations and then number 86 which is a Jewish community organisation’s events. They are considered not – those two latter ones are very broad so we don’t know what that would entail. It would – could be overreaching a school use. So we do have in our set of conditions that  
15 we’ve put forward to the Department – that is condition – sorry, I’m just looking at my notes here. Where is it? Condition 48 of our conditions - - -

MR DUNCAN: Yes.

20 MR MAGISTRALE: - - - we would – we have actually set out that those activities have – are not approved because we have deemed them previously when they’ve – Moriah College have applied separately that they aren’t ancillary to a school use and then that’s the – I guess what would like to do is – or what we would put forward is in the Department’s set of conditions which are G30 and G31 in terms of the plan of  
25 management, that it is to come back to Council for satisfaction. That we would like to specifically say that those particular uses that I just mentioned aren’t approved and that there’s a specific criterion that says that any – that any applied for use shall be deemed directly ancillary to the school use.

30 MR REID: ..... just a bit of quick background for the Commission on this: the school never really had a proper plan of management that applied in terms of a previous development consensus before the early learning centre DA came to us and there – the Council had had a lot of community complaints about the school operating outside of normal school hours and about various functions that the school  
35 was operating. So we spoke with the Moriah College representatives and asked them – we thought it would be a good opportunity with the ELC DA to try and regularise that. So they did a comprehensive plan of management not for the early childhood centre also for the whole school and so bundled it all up and the criteria that we said was that after hours events were okay providing they’re clearly an ancillary use to an  
40 educational establishment.

So, you know, they couldn’t start running a, you know, used car lot on a Sunday there. So it had to be proper ancillary to school usage. That they didn’t go beyond  
45 10 pm at night because residents were objecting to late finishes and lots of traffic and they provided information to us that satisfied us and the local residents that issues such as security and traffic management and noise and parking would be properly addressed as part of those functions. So they provided us a list of functions they

have pretty much every year and we went through and reviewed them and approved them all except for those three that you see there: the sausage sizzle, the community celebrations and the general Jewish community events because we consider them to be not really directly ancillary to a normal educational establishment use and they  
5 accepted it at the time. Now they've come back and they've tried to put them back in again and we would ask the Commission to exclude them.

MR DUNCAN: Okay. We'll take that on board - - -

10 MR REID: .....

MR DUNCAN: - - - and we'll see how we can deal with that in the process. Adrian, have you got a question?

15 MR PILTON: Do we have a copy of the Council's conditions or the suggestions you made to the Department?

MR DUNCAN: Okay. Do you .....

20 MR REID: That would be a question for - - -

MS K. MOORE: I believe we do.

MR REID: Yes.  
25

MR PILTON: We do. Okay. Thank you.

MR DUNCAN: All right. Mitchell, if we need to, we might come back to you just out of session on a couple of those points but - - -  
30

MR REID: That's fine.

MR DUNCAN: Okay. Anything else at this time?

35 MR REID: No. Ben?

MR MAGISTRALE: There was just some sort of low sort of threshold issues just with the conditions. We do – generally we ask for a security for any development works to protect our – Council's infrastructure, you know, kerbs, stormwater pits, all  
40 that sort of stuff and I note that there have been sort of conditions to stay that the applicant's directly responsible for any damage incurred if it's private property or Council's property. We would urge that we would like that security deposit put in the consent so that the requirement for that – for that deposit so that there is some kind of, I guess, assurance that we – the Council won't have, you know, damage but  
45 also – will prevent damage but also just to ensure that accountability by the construction personnel that that will – our kerbs will be protected, that kind of thing. So – yes. We just don't think that the conditions recommended in that respect go far enough.

MR REID: That was the recommended condition G5 in the Department's report.

MR MAGISTRALE: Yes.

5 MR REID: Which is protection of public infrastructure. The concern that we would normally have is that it dictates that the applicant may pay the full costs associated with repairing any public infrastructure but the enforceability, I guess, is the concern that we would have with that. Once we have a deposit there it's easily enforceable because they don't get their deposit back on they fix it.

10 MR DUNCAN: Okay. We'll again take that one on note and should we get to that stage, we'll talk to the Department.

15 MR REID: Great. Thank you.

MR MAGISTRALE: Sure.

MR DUNCAN: So there's about three issues there: the construction hours conditions, the plan of management uses and that security deposit. Is that - - -

20 MR REID: Yes.

MR MAGISTRALE: There was also just another condition that we would like and we have a 3D model of all – most properties in Waverley that have – that have had approval for certain development and there was a condition and again I wouldn't - - -

MR REID: 49.

30 MR MAGISTRALE: - - - know that condition - - -

MR REID: 49.

35 MR MAGISTRALE: 49. That's it. We'd like that adopted as well just for our own – for our own database, essentially, because that is a heavily relied upon tool at Council, the 3D modelling and it would be good if we could have Moriah College or this development proposal should it be approved captured as part of that.

40 MR DUNCAN: Okay. We'll note that request as well. All right. At this time, Kate or Rebecca or Lauren, do you have any questions?

UNIDENTIFIED FEMALE: No questions from us. Thanks, Peters.

45 MR DUNCAN: Okay. Kate?

MS MOORE: Can I just ask that you just provide those proposed conditions – amendments.

MR REID: Yes. We can provide that to you.

MR DUNCAN: Thank you.

5 MS MOORE: Thank you very much.

MR DUNCAN: All right. Mitchell and Ben, I don't think we have any further  
questions at this stage. Thanks for your time again this afternoon. It's been very  
helpful and we've got a public meeting coming up and we'll consider this in due  
10 course. Okay.

MR REID: Thank you.

MR PILTON: Thank you.  
15

MR DUNCAN: Thanks.

MR MAGISTRALE: Thank you.

20 MR DUNCAN: Okay.

MR MAGISTRALE: Bye.

25 **RECORDING CONCLUDED**

**[3.54 pm]**