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O/N H-1580453

**INDEPENDENT PLANNING COMMISSION**

**MEETING WITH DEPARTMENT OF PLANNING, INDUSTRY AND ENVIRONMENT**

**RE: WEIGALL SPORTS COMPLEX, SYDNEY GRAMMAR SCHOOL (SSD-10421)**

**PANEL:** **PETER DUNCAN, AM**  
**PROF RICHARD MACKAY, AM**

**OFFICE OF THE IPC:** **LINDSEY BLECHER**  
**JANE ANDERSON**  
**PHOEBE JARVIS**

**DEPARTMENT OF PLANNING, INDUSTRY AND ENVIRONMENT:** **ERICA VAN DEN HONERT**  
**KAREN HARRAGON**  
**ADITI COOMER**  
**RORY TOOMEY**  
**MATTHEW ROSEL**

**DATE:** **10.01 AM, FRIDAY, 15 OCTOBER 2021**

MR P. DUNCAN: Good morning and welcome. Before we begin, I would like to acknowledge the traditional owners of the land from which we virtually meet today and pay my respects to elders past, present and emerging. Welcome to the meeting today to discuss the Weigall Sports Complex, Sydney Grammar School Project,  
5 SSD10421, currently before the Commission for determination. Sydney Grammar School, the applicant, is seeking approval for the new Weigall Sports Centre, comprising demolition of existing sports facilities and car parking areas, bulk excavations, and construction of a new three storey sports complex with basement in a single story split level carpark. My name is Peter Duncan. I am the chair of the  
10 Commission Panel. I am joined by my fellow Commissioner, Professor Richard Mackay. We are joined by Lindsey Blecher, Jane Anderson and Phoebe Jarvis from the Office of the Independent Planning 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  
15 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 from which the Commission will base its determination. It is important to the Commissioners to ask questions of attendees  
20 and to clarify issues whenever it is considered appropriate. If you are 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 will then post 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 the accuracy of the transcript. We will now begin. Karen, you might like to introduce your team. And if I could ask each member when you speak for the first time to say your name. Thank you. Karen.  
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MS K. HARRAGON: Good morning, Commissioners and planning secretariat. I am Karen Harragon, Director, Social and Infrastructure Assessments at the Department of Planning, Industry and Environment. And I'm here with my colleagues, Aditi Coomar from the School Infrastructure Assessments Team, Erica  
35 van den Honert, Executive Director, Infrastructure, and our planning consultant, Matthew Rosel from Townscape. Rory Toomey from the Government Architect's office is also here representing the Department today. Our presentation today will outline the Department's approach to the assessment of the Sydney Grammar School SSD application for a new sports complex and parking within the Weigall Sports  
40 Ground.

The application is State significant development, as it is development for the purposes of alterations or additions to an existing school with a capital investment value of more than 20 million. The proposal was referred to the Commission as  
45 more than 50 public submissions in the form of objection were received during exhibition of the EIS. I will now request Aditi to share the fullsize screen presentation. We will just wait for that to display. Thanks. Thank you, Aditi. Our presentation today

will include a brief overview of the key issues of concern that were raised in the submissions, the Department's assessment of the application and the matters noted in the Commissioners' agenda for today's briefing.

5 I'm now going to provide a brief overview of the site. As detailed in the  
Department's assessment report, the SSD application relates to the irregular shaped  
site located within the south-western corner of the Sydney Grammar School Weigall  
Sports Ground. The aerial view of the site shows the existing Edgecliff school  
10 campus, the Weigall Sports Grounds outlined in blue, and the project site boundary  
outlined in red.

This slide shows a layout of the existing sports structures and buildings within the  
site, the adjoining sports grounds, as well as a nearby urban development. The site  
adjoins Neild Avenue to the west, Alma Street to the east, and the remaining sports  
15 grounds to the north. Residential properties front in Lawson Street. Vialoux Avenue  
and Alma Street adjoin the site's southern boundary. The surrounding residential  
properties comprise a mixture of houses and apartment buildings. The site is not a  
heritage item, however it is located within the Paddington Heritage Conservation  
Area under the Woollahra LEP.

20 The site contains a total of 90 existing native and non-native trees and is subject to  
flooding during the one in 100 year and probable maximum flood events. The site  
contains a number of sporting facilities, including six multipurpose courts, cricket  
nets, paved and grassed areas, and a two storey pavilion. Vehicle and pedestrian  
25 access to the site is via entrances off Neild Avenue and Alma Street, and an internal  
service road runs along the southern boundary between Alma Street and Vialoux  
Avenue. The site includes a surface car park for eight parking spaces and waste  
storage areas accessed on Neild Avenue.

30 The proposal includes the demolition of the existing buildings and structures and the  
construction of two main buildings along the boundary. Building 1 comprises of a  
three storey sports facilities building, including two indoor swimming pools, four  
multipurpose courts, outdoor spectator seating, five car parking spaces, and a pickup  
and drop off facility. Building 2 comprises a single story car park providing for 97  
35 car parking spaces and six motorcycle parking spaces at ground floor and roof level.

The applicant proposes that the new sports facilities within Building 1 will be used  
by the school between Monday and Saturday. When the registered facilities are not  
required by the school, the two pools would be made available to registered  
40 community organisations to use between Monday and Sunday. The car parking in  
Building 2 is only proposed to be used in conjunction with the sports facilities and is  
not proposed for unrelated general public use or commuter parking. I will now hand  
over to Matthew, who will present further details on the key issues of the application.  
Thank you, Matthew.

45 MR M. ROSEL: Thank you, Karen, and good morning, Commissioners. My name  
is Matthew Rosel, and I am a planning consultant from Townscape. This part of our

presentation will focus on the key issues as itemised in the Commission's meeting agenda. First, I will speak in relation to the building location and amendments to Building 1. I will then move on to view loss, other amenity impacts, tree removal and public benefit.

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Concerns were raised in public submissions that the location of Building of 1 is inappropriate, would have adverse impacts on residential amenity, and should be relocated to the opposite side of the Weigall sports grounds next to the railway viaduct the application includes a site selection analysis, which concluded that the proposed location is the best location for development as it achieves the school's development objectives, responds to site constraints, and amenity impacts have been addressed.

10

The Department carefully considered the building location at section 6.2 of its report. The Department's assessment concluded the design of Building 1, and in particular its scale in its current location, would adversely impact on the neighbouring residential properties along the southern boundary. Furthermore, the impact would be significant on the apartments within 8 Vialoux Avenue, mainly in relation to view loss.

15

To allow for the building to be built in its current location while minimising the impacts on 8 Vialoux Avenue, the Department has recommended amendments to the design while minimising the impacts on 8 Vialoux Avenue. The Department has recommended amendments to the design of the development, which I will discuss later. Subject to the implementation of these amendments, the Department concludes the current site location can be considered acceptable. In particular, the site is the least flood affected part of the sports ground, does not impact on the Weigall Sports Grounds' facilities, and the alternative locations near the railway viaduct are not feasible locations.

20

The Department has considered view loss impacts of the development on the adjoining properties at section 6.3 of its report. Approximately 39 per cent of all public submissions raised concerns about view loss. The Applicant submitted a visual and impact assessment with the application, which assessed five adjoining properties. The assessment concluded that the development would result in view loss impacts characterised as negligible through to severe at properties on Neild Avenue, Alma Street and 9 Vialoux Avenue and also at 29 and 33 Lawson Street. At number 8 Vialoux Avenue, the impacts were characterised as severe to devastating.

25

The Department undertook an assessment of the view loss impacts resulting from the current design of Building 1 in accordance with the Land and Environment Planning Principles established within the Tenacity court case. In this regard, the Department considered the circumstances of the site, relevant planning controls, the scale of the impact, and whether the development has been skilfully designed to address its impacts. The Department's assessment concluded the devastating view loss impacts to the north facing apartments within 8 Vialoux Avenue is un-neighbourly and unreasonable. The Department concluded the view loss impacts to other residential

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properties, having regard to the Land and Environment Court Tenacity planning principles, were on balance acceptable.

5 On this basis, the Department concluded that the development could only be allowed  
in its current location if the devastating view loss impacts experienced from the  
apartments within 8 Vialoux Avenue were improved where, as a minimum,  
additional sky views should be retained for the majority of livings rooms of affected  
apartments. The Department has undertaken extensive consultation with the  
Applicant during the assessment process to address the view loss impacts. As a  
10 result of this consultation, the Applicant has suggested an alternative design for  
Building 1, which relocates building mass away from 8 Vialoux Avenue, as shown  
on this slide. The Department considered the suggested design amendments and  
concluded the revised proposal would result in a balanced outcome. In particular, the  
revised development would be capable of providing the same development potential  
15 whilst reducing impacts on views from affected apartments within 8 Vialoux  
Avenue. The Department has recommended a condition requiring the Applicant  
provide amended drawings for the Department's approval prior to the issue of a  
construction certificate.

20 The Department has considered amenity impact of the development on adjoining  
properties as section 6.3 of its report. With regard to overshadowing, the  
Department's assessment concludes the development would alter the amount of  
direct sunlight reaching adjoining residential properties. The Applicant has provided  
a solar analysis, which confirms the overshadowing is consistent with the Apartment  
25 Design Guide minimum requirements, which requires apartment living rooms  
receive a minimum of two hours of direct sunlight in midwinter. The Department  
agrees the proposal meets the minimum Apartment Design Guide requirements for  
solar access, however, the Department noted the reduction in sunlight to 8 Vialoux  
Avenue from six hours to two hours is significant. Notwithstanding this, the  
30 Department concluded the overall overshadowing impacts are reasonable, given the  
circumstances of the site. In addition, the required amendments to the design of  
Building 1 are likely to improve solar access to the apartments within 8 Vialoux  
Avenue.

35 With regard to operational noise, the Department's assessment acknowledges the  
proposal would generate some noise during its operation. However, the Department  
has concluded this is acceptable, as operational noise has been demonstrated not to  
exceed the relevant noise criteria, and mitigation measures are proposed, including  
the installation of acoustic fences, acoustically absorbent materials, limitation on  
40 when windows can be open, when the pickup and drop off facilities can be used, and  
the implementation of an operational management plan.

The Department has confirmed construction would be undertaken – sorry, the  
Applicant has confirmed construction would be undertaken in accordance with the  
45 interim construction noise guideline and its standard hours of construction. To  
address construction noise impacts, the Applicant proposes the implementation of a  
noise and vibration management plan, community consultation, noise monitoring and  
restrictions on high noise generating activities. The Department considers, given the  
dense urban nature of the immediate surrounding nature, some noise impacts during

construction are unavoidable. The Department has considered the applicant's mitigation measures and concludes they are acceptable. However, given the potential for noise impacts, the Department also recommends the Applicant implement respite periods from the noisiest activities and that all vehicles arrive and depart only within the standard hours of construction.

With regard to light spill, the proposal includes lighting generally in relation to pedestrian circulation and car parking areas. No sports field lighting is proposed. The Applicant has confirmed that all lighting would be installed to meet the relevant Australian standards. In addition, mitigation measures include implementing targeted light fittings, a lighting curfew, motion sensors to the roof of building 2 carpark, and limited access after 9 pm. The Department is satisfied the proposed lighting would not result in adverse light spill and has recommended conditions requiring the lighting be installed in accordance with the mitigation measures.

I will now move on to talk about tree removal. A total of 90 existing native and non-native trees are located within the site. The application seeks to remove 20 of those trees and plant 42 replacements. Approximately 25 per cent of all public submissions raised concerns about tree removal, and the City of Sydney Council recommended the retention of an additional four trees on Neild Avenue. The Applicant has stated that it's not possible to retain the 20 trees identified for removal as they conflict with the proposed development location or their removal is necessary due to their poor health or significance. Notwithstanding this, the Department has carried out its own assessment of the impact on trees and considers, subject to amendments, it would be possible to retain an additional three trees along Neild Avenue frontage. The Department has recommended conditions requiring the retention of the three additional trees and also requiring confirmation of the exact location and species of the replacement trees.

I will now move on to talk about public benefits. In this regard, the application proposes that two new pools will be made available for limited community use by external organisations. No individual public access is proposed. Approximately 19 per cent of public submissions raised concerns about public benefit – in particular, that community use excludes access by the public. The Applicant stated that community use is restricted to external organisations rather than individuals, as it enables better management of the school's duty of care to students and prevents wider environmental impacts relating to traffic, parking and noise. The Department's assessment concludes that the community use only for external organisations is acceptable in this instance, as access would be variable and dependent on when the facilities are not needed by the school. Four existing public pools are located within close proximity to the site and providing access for organisations, like other schools and sporting associations is understandable and represents public benefit. I will now hand over to Karen, who will talk more about public engagement and provide our conclusion.

MS HARRAGON: Thank you, Matthew. Public engagement – with regard to the public engagement, I can confirm that the application was publicly exhibited in

November 2020 for an extended period of 45 days. In addition, all application documentation was publicly available on the Department's website. In response to a request from the residents of 29 to 33 Lawson Street, the Department held a meeting at that property on 10 May 2021. The Department presented details of the  
5 development, explained the assessment process, met with residents, listened to their issues and concerns, and also visited a number of apartments following the meeting.

The engagement on site was constrained due to the start of the initial COVID restrictions in Sydney. For this reason, wider notification of the meeting to all  
10 adjoining owners could not occur due to restricted numbers. Attendance at the meeting included residents from 29 to 33 Lawson Street and a number of residents from Vialoux Avenue. Thank you. This concludes our presentation on the key issues of the application.

15 The assessment of the development's merits requires consideration of public interests under the Environmental Planning and Assessment Act. Weighing up the private interests or benefits against the public interests or benefits was part of the Department's consideration. Public interest includes those property owners and tenants in the vicinity who currently enjoy landscaped views over the school's land.  
20 The Department acknowledges that the introduction of the proposed development on the site will have a significant impact on people within the vicinity. However, the Department is satisfied subject to the amendment of the design of Building 1, the development would respond appropriately to the site context and provide a balanced built form and amenity outcome.

25 Informing this advice, the Department has regard to the impacts on amenity of the adjoining owners. This included the Land and Environment Court's established set of planning principles and what an assessment should take into account in assessing view loss impacts. The Department has also considered the Applicant's option  
30 analysis, the current functional requirements of the site, as well as the strategic planning considerations for the site as set down in the council's policy documents which govern development on the site. These include the zoning of the site and the height provisions under the LEP. On balance, the Department concludes in its report that the impacts of the development can be mitigated through the recommended  
35 conditions of consent and that the development would be acceptable. I will now hand back to the Panel for any questions.

40 MR DUNCAN: Thanks, Karen. That's been good. You've covered most of the items that we've listed in the agenda, and we have a few questions generally about those items. So I was wondering, Richard, would you like to start off?

PROF R. MACKAY: Thank you, Peter. It's Richard Mackay speaking, and good morning all. Could I perhaps just start with something that came up in the presentation. In the visualisations that Matthew presented from unit 5 in 8 Vialoux –  
45 and I think unit 5, if my memory serves me correctly, is a middle level unit. Assuming that the changes to the built form of the eastern end of Building 1 are made

as per the discussion between the Department and the Applicant, is that view actually improved? I mean, it's assessed – and I'm conscious there's a unit below unit – I guess it's unit 1. You know, is – do the changes that are made actually change that outlook as shown in the visualisations? I guess that's my question. Has the  
5 Department seen that or turned its mind to how that would change, please?

MS HARRAGON: So I might perhaps start a little in respect of that answer, and I may also have Matthew respond as well. So probably what is – before I actually answer that specific question, Commissioner, I might actually say that the  
10 Department formed its own view as detailed in the report on the level of severity of those impacts. Whilst there was a very detailed and quite well set out report provided by the applicant, and that was followed up by an independent one as well, the Department still formed its own view based on the Tenacity principles in terms of the – I guess the view in the first instance in terms of whether it was a regional view  
15 or an iconic view – to then form the opinion also on the severity of the loss. So we formed an opinion early based on the principles that Tenacity asked us to do so that the ongoing continuation of the current views would not be achieved through the development of any form of building in that area whatsoever, and we were not going to be able to continue to maintain views across the entirety of that field. So our  
20 expectation was particularly in relation to those that had what, in our view, were devastating impacts – was to mitigate the extent of the sky view loss so that the general amenity principles could be still provided to those properties on 8 Vialoux even though the views of the actual grounds were not. So in our view, it will be mitigated. It will be reduced. But the severity of impacts in our mind will probably  
25 reduce it from potentially devastating to still probably severe. Matt, is there anything you would want to add to that comment?

MR ROSEL: No, Karen. That's fine. That's excellent.

30 PROF MACKAY: Could I just perhaps ask something more direct and measurable, and by all means take it on notice if you're not sure. For unit 1, will more sky actually be visible out that living room window with the changes?

MS HARRAGON: We take that on notice. We will provide a bit more analysis.  
35 Because obviously, it's often misleading by just also taking regard to a photo in terms of a person's view outside of a window has a much more wider angle that accompanies it. So we will take that on notice. Is it particularly for unit 1, or would you also appreciate - - -

40 PROF MACKAY: I think unit 1 is a good example, because the ground floor - - -

MS HARRAGON: Okay.

45 PROF MACKAY: I appreciate that the proposal is to push back some elements of the building to the north. I appreciate that the Department has formed a view that the outlook across the courts to the playing fields will no longer be there with any development on the site and understand that.

MS HARRAGON: Yes.

PROF MACKAY: So the gain that is apparently at the basis of the judgement that moves from a devastating impact to perhaps a severe impact and becomes reasonable  
5 under the 4<sup>th</sup> step of the Tenacity principles seems to be attached to being able to see more sky. So my question is would you actually see more sky?

MS HARRAGON: And I think – we will take that on notice, because it's obviously  
10 the distinction between the improvement is very different between the levels of the building, yes.

PROF MACKAY: Thank you for that. Look, just pursuing that question of the amenity of the residence to the south for a moment – firstly, I note that the setback – you know, appreciating that the building at 8 Vialoux is built right to the boundary –  
15 the setback doesn't meet what the [Apartment Design Guide] would normally specify. I appreciate that in a statutory sense, they don't apply. But given the scale of the building, I'm just interested in why the Department thinks it wouldn't be appropriate to require compliance with the [Apartment Design Guide], please.

MS HARRAGON: So I guess there's a statutory layer to – that's just one limb. So there's a statutory consideration because, you know, clearly it's not an apartment. But we still – and also the provisions that relate to state significant development would also turn off the LEP to an extent that it becomes a merits consideration. So notwithstanding the provisions of the – that apply to SSD don't oblige us to consider  
20 the provisions. In all instances, we still have regard to those, because it still sets good principles for expectations on what development could have occurred on that site. So you will find that the Applicant has actually provided quite detailed assessment against the apartment SEPP. In our mind, it was one of a number of matters that needed to be had regard to, and that also included the LEP layer that  
25 applies to the site. So, you know, it's not that we've discounted it. But we don't believe that in itself, the argument put forward by the Applicant was that because of its consistency with that SEPP, that should be why the building in the form it was should be supported. We actually formed the opinion it's one of a number of outcomes that is a basis of the opinion on whether the built form in that area is  
30 acceptable. So I will probably take that on notice as well in terms of giving a succinct answer to that.

PROF MACKAY: Thank you. I guess to get right to the point and noting everything that you've just said, on my reading, the proposed building is about 1.8  
40 metres less than what the ADG separation would say. And the question begs itself, well, why not require of the Applicant, given the nature of the amenity impacts – why not say well, at least we can meet the ADG separation? So it would be great to have an answer on notice for that. Thank you.

45 Look, again, dealing with this question of the proximity of Building 1 to the south, it does rather seem that in the strategic planning design options analysis for the site, the school has – and its designers – have started with the premise that the ovals to the

north – and particularly what they call their second oval and the 400 metre running track – are kind of constraints around which the design must be managed. In other words, those ovals need to be maintained and therefore the available building footprint is what exists to the south of those ovals. But obviously, there’s a choice  
5 being made there to retain the – putting it bluntly – the radius required to hit a boundary from the cricket pitch, as opposed to providing more amenity and setback for the residents to the south. So why would one not look at moving the entire development some four metres or so to the north – noting that it’s got an effect on the oval, but it would have a significant improvement for the most affected residents to  
10 the south, please.

MS HARRAGON: And there’s an acknowledgement that that became – the fundamentals of the balancing considerations that were necessary for the Department to form an opinion. So we were not necessarily of the view that we would take it on  
15 face value that the constraints that the Applicant identified were necessarily fixed in relation to that property. So clearly, there’s constraints on this property in relation to flooding and a number of other elements. But we have very much an open mind to the remainder of the uses of that site in terms of whether they represent a constraint. And so our report even suggests that the constraints that the Applicant has identified  
20 in that options analysis are those that the Applicant has identified as functional constraints for the site. And so we went about considering what the significance of the impact of this building was against the consequences of, you know, that loss of functionality. And on balance, would it warrant that loss. So our opinion was that the significance of the impact on balance subject to those mitigations as set down in  
25 the condition would not either (1) mitigate the development being refused or warrant the application being conditioned such that the loss of that functionality of the oval were warranted.

PROF MACKAY: Thank you for that. I think that – yes, that’s a clear explanation.  
30 Thank you.

MS A. COOMAR: And can I just also add – sorry. My name is Aditi Coomar, I’m the team leader of the school infrastructure team. Good morning. Can I just also ask – can I just also add that we have had that discussion with the Applicant – whether  
35 the building could be moved about four metres to the north and to the frontage of the Neild Avenue, as we have mentioned in the assessment report. At that time, the Applicant has – although they have not provided us with a detailed design, they did let us know that they needed to reorient the basketball courts in order to fit the building in that location along the Neild Avenue frontage with the setback from the  
40 southern boundary, which would mean that the building would become elongated and would not basically have a design that the applicant was wanting to have.

PROF MACKAY: Thank you, Aditi. I think you’re referring to Option 5, and that makes intuitive sense that by reconfiguring the building, they would have to turn the  
45 internal courts around and therefore you get a bigger footprint. I think what I am actually asking about is pushing the entire built form a little bit further north, which would create greater separation, compliance with ADG, perhaps improve the

residential amenity, but would of course have the consequence of making the playing field smaller. And we will ask the Applicant, I'm sure, about the consequence for the running track and the consequence for the playing fields.

5 If I might, I just move on to another design question. The submission from  
Woollahra Council was looking to have some greater articulation of the eastern and  
western facades, either fenestration or other design elements. There's a lot of  
documentation in this application, but I can't see that there's been any substantive  
response to that request. Is that something to which the Department has turned its  
10 mind and formed a view, please?

MS COOMAR: Can we ask Matthew to comment on that, please, Matt. Thanks.

15 MS HARRAGON: And so – can we also – we will invite Rory to also speak on  
behalf of the government architect's office as well.

MR ROSEL: Yes. So the Department actually requested the Applicant to  
specifically consider Council's request. I think that was in response to the RtS  
following the submission of the RtS. The applicant responded and said basically that  
20 the design as put forward, it feels, has sufficient articulation, has sufficient breaking  
within the façade itself, and it felt that that was satisfactory. The Department turned  
its mind to assessing the overall design of the building, and took an on balance view  
that on balance, yes, it was acceptable from a streetscape perspective, also noting that  
those frontages to Vialoux and also to Neild Avenue would be subject to additional  
25 landscaping works as well. So - - -

MR R. TOOMEY: Good morning, Commissioners. It's Rory Toomey here, from  
Government Architects. We made a similar comment, or the State Design Review  
Panel made a similar comment when first asked to review the project – that  
30 articulation of the western and southern facades, in our case. We didn't mention the  
eastern, which I think is the Vialoux Avenue elevation. But we have not reviewed  
the project further since the lodgement of the EIS. So I don't really have any further  
comments from the State Design Review Panel, and we're happy to provide another  
advice on that and take that question on notice if that's the preference of the  
35 Commissioners.

PROF MACKAY: Thank you, Mr Toomey. I think that would be very helpful,  
particularly the western façade front in Neild Avenue is very much the public domain  
interface of the largest building that is part of this application. And it's surprising  
40 that the Applicant has received that feedback and there is not some response to  
provide additional articulation. I mean, what comes to mind is something like the  
Ravenswood School at Gordon. I don't know if you know that development which  
has a very modern building fronting the Pacific Highway. Absolutely an  
architectural statement, but something that is very mindful of the interface between  
45 the large educational institutional building and the public realm outside. It would  
seem to me that it's not an unreasonable representation from Woollahra Council to  
expect something similar for this property and this proposal. I've just got a couple of

quick – I think quick questions, if I may share just on some of the conditions. One of them relates to the trains and Sydney Trains. It did strike me that the condition that's being put in arising from Sydney Trains is simply because there's the eastern suburbs railway viaduct affecting the property, and actually it's completely irrelevant to this development. Could I just ask for quick comment on that, please.

MS COOMAR: Can I please ask which condition you're referring to, sorry, Commissioner?

10 PROF MACKAY: There's some conditions regarding the Sydney Trains infrastructure and looking to their integrity. But actually, this development is at completely the other end of the site. I'm just not interested in having superfluous conditions included should the Commission have a mind to grant consent.

15 MS COOMAR: This was a condition from Transport New South Wales and Sydney Trains, which they usually provide to us for any development where – and in this extent – in this development, they're actually quite far away. I totally agree with you on that. It would be up to the Commission if they want to add it. We usually add the government agency conditions if they ask for it if it does not contradict the development as such.

MS HARRAGON: The Department is also happy to reach out to Transport and seek their agreement, given the separation between the buildings and the actual railway line as to their removal.

25 PROF MACKAY: Thanks, Ms Harragon. Look, I think that would be helpful and appropriate, because if, you know – I mean, the Panel has not formed a substantive view yet, but it does rather seem to me it's not appropriate to load in conditions that have no practical effect. In a similar vein, it did rather strike me – and this is my field of professional expertise – that given the technical assessment of the Aboriginal heritage and the expectation that there will be nothing there requiring an archaeological – an Aboriginal heritage management plan was not appropriate, but it would be perfectly adequate to have unexpected finds and contractor briefing conditions and that the Applicant shouldn't be burdened with yet another plan and report. I know it's come from Heritage New South Wales, but again it just strikes me as a cut and past automatic condition rather than a substantive consideration of the merits of this application.

MS HARRAGON: We're also happy to perhaps suggest to Heritage New South Wales an alternative condition which is a protocol, so that there's some security and certainty around if unexpected finds are located, what that process going forward would be.

45 PROF MACKAY: Yes. Look, thank you for that. And, look, a last question from me relates to trucks. A large number of the local resident submissions and the submission from the local member express concern about particularly – well, amongst other things, about the truck queuing. And just a question as to whether

alternative arrangements have been considered – more stacking of trucks in Neild Avenue or use of areas on site for trucks during construction, please.

MS COOMAR: Matthew, do you want to take this question first, please.

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MR ROSEL: Sorry. Thanks. So the Department considered the impact of construction vehicles in its report. One of the key things that we identified was the potential access issues down Vialoux Avenue. And so that was one of the issues that we sought to address through imposing a condition to require the applicant to submit its construction traffic management plan for our approval. As part of that condition, it would take a holistic look at construction traffic management. So it may be the case that due to the width of Vialoux Avenue, the applicant may need to revise its access to the site containing building one. And as part of that, there would be a broader exploration of construction traffic, potential entrances and so on. So I feel that that condition could cover, you know, addressing construction traffic impacts that aren't already projected.

MS HARRAGON: We could also make suggestions for our current recommendation that specify direct commentary and resolution of the stacking of and alternate overflow for trucks – how that's going to be managed, where that's going to be located. And this may include, also, communication with people managing the site in terms of asking trucks to go around rather than enter into a queuing that's already full.

PROF MACKAY: Thank you. I think that would be helpful, and that's very informative. I mean, taking on board the commentary about the Vialoux access, it just seems to me on the face of it that there is potential for much less impact of trucks on the adjacent residential area if the truck arrangements attach more to Neild Avenue than to up into Lawson Street, Vialoux Avenue, et cetera.

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MS HARRAGON: Yes.

PROF MACKAY: So it would be good to hear from the Department further on that. Thank you.

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MS HARRAGON: Yes. And we're also keen to understand and have a guarantee that trucks using Vialoux also aren't going to impact on those trees that are currently overhanging the road reserve, because they're – I think they actually contribute to the heritage conservation area as well. So we're keen to make sure that that's not going to be as a consequential impact that the loss of those is going to occur either.

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PROF MACKAY: Thank you. Chair, that's all from me for the moment. I might have a couple of subsidiaries later, but - - -

MR DUNCAN: Thank you, Commissioner Mackay. You've been very thorough. I have another question sort of in the same line and without prejudice about the process, but the opportunity for community access, and there's draft conditions there

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as well. There's no direct access for community, but I notice for community organisations. The question I've got relates to the potential for particularly those residents in the three blocks right up against the boundary of the building and the one that's the most impacted – whether there's an opportunity for them, in some way, to  
5 have access to the facilities.

MS HARRAGON: So the question you're asking was actually one that we did put to the Applicant, because we wanted a better understanding given, I guess, the balancing of if there was some community gain by the development in a direct way  
10 for these neighbours. The Applicant will speak to it further, no doubt, but they suggested it would be very hard for the school to manage individuals coming to the site, particularly given the duty of care of students, et cetera. And that – provided that those residents were members of community groups where the community groups would manage that subscription and entry, that wouldn't necessarily be an  
15 issue. But they did suggest the reasons why they did not think just open access would be something that they could manage.

MR DUNCAN: Have they – thanks for that. Have they provided an outline of what those groups might be?  
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MS HARRAGON: They've certainly spoken to it. They've also, to some extent, put it into documentation as well. So they sort of suggested that other sport groups or other public schools – you know, they could have the use of the facilities where the organisations take responsibility for vetting and ensuring that the people who are  
25 attending as part of their group were people that they could recognise. And I guess also COVID brought with it its own challenges as well in terms of, you know, I think there was some regard about when community groups would come, there would be an expectation that they would have knowledge that that group be coming on that particular day and that they could make bookings and such and that the management  
30 could occur. But the Department is certainly aware of other facilities such as these being run by private schools do allow for a more wider access to be available during certain hours of the day. So, you know, we believe it is a possibility. It would just be a more onerous requirement and I guess require full-time staff.

MR DUNCAN: Yes. All right. Well, it might be something that we discuss further with them when we talk to them today. Thanks, Karen. The other - - -  
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PROF MACKAY: It's Richard Mackay. Could I just ask a supplementary question on that?  
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MR DUNCAN: Sure.

PROF MACKAY: It seems to me that while it's very meritorious to say we will provide community use to registered clubs, et cetera – just stepping back and looking  
45 at the totality of the development and the impacts, is there not a disconnect between those who would receive the adverse impacts of the proposal and those who would receive the benefits? And, you know, has the Department got any experience in

similar or comparable projects? I mean, noting that the residents in Lawson Street – now, Lawson Street contains quite a lot of social housing. And I suspect that those residents are not members of local sporting clubs. And so they are going to bear the brunt of change to their outlook and the amenity impacts the assessment reports identified and yet not have the benefit of the community access to the pool. Are there precedents where the Applicant has been asked to become responsible for putting in place the necessary arrangements? If they want to have a registered association, then maybe they need to think about the ‘Lawson Vialoux recreational club’ and give those residents access to their pools.

10 MS HARRAGON: So we don’t have any knowledge of that as part of a state significant development application. But the Department recognises how that definitely could be provided and facilitated by the school. What we would be keen to do is to provide, as per the Commission’s suggestion, that it’s not open access to all community members. Because ultimately, we will have to weigh up the broader impacts if we were to have additional vehicle movements coming to the site, additional noise impacts. So there is a significant difference between returning some value, some benefit to the immediate adjoining owners and residents who are going to experience significant loss. And we believe that people being able to walk from their houses would offset some of that potential additional negative impacts that would otherwise occur if this was a facility that was required to be open to a wider community group.

25 MR DUNCAN: And that’s certainly the focus of our question, not necessarily why - - -

MS HARRAGON: Yes. Yes.

30 MR DUNCAN: ..... that are directly impacted in those three buildings. Just another question sort of in that same area – there is a draft condition presented talking about maximum of 14 events per year. Is there a terminology for what an event might be? Is there a minimum sort of threshold to create an event?

35 MS HARRAGON: I might get Aditi to speak to that further on that. So definitely, the Applicant has set down in the Environmental Impact Statement the parameters on what these nonstandard events would be – you know, we would be able to support the Commission in providing a definition that could go into the instrument of approval. It’s not unlike how we’ve managed other nonstandard activities occurring. Matt, did you want to suggest what some of those events might represent?

40 MR DUNCAN: Well ..... given time, that might be the best way to proceed.

MS HARRAGON: Yes.

45 MR DUNCAN: That’s what we’ve – you know ..... there needs to be some sort of definition ..... that process.

MS COOMAR: So the Applicant has provided us with a table of the usage where they have mentioned the 14 events. But you are correct, they have not defined an event. We do have an outline of the number of people that can attend depending on the capacity of the swimming pools, but we're happy to include that in the conditions of consent and take that on notice.

MR DUNCAN: Okay. I have one final one in that also similar vein. In the process where you're recommending community consulting, I note that it ..... that the Community Consultative Committee would establish prior to the commencement of construction. It would be reasonable again, wouldn't it, to put a time period prior to that so that, for example, the Committee has not stood up one day and construction could start the next day.

MS HARRAGON: So what we've typically, in terms of the Department – so the Department has a role in the CCC – the Community Consultative Committees. The secretary actually has to endorse the people on it. It's actually quite a long pathway for the notification. So what we've typically required in terms of the interpretation of that condition is that they must have held a meeting before construction occurs. But we could actually again specify that activity as being the Committee having come together as being quite clear that it's simply not that they've been put on to the Committee and the Committee hasn't met.

MR DUNCAN: Yes. Now, I think – actually ..... two weeks prior to commencement, so let's talk about that.

MS HARRAGON: Yes. But there's a difference between, say, perhaps getting a letter to say you've now been confirmed, and we could actually specify that one meeting – at least one meeting must be held before construction.

MR DUNCAN: Okay. All right. Richard, do you have any further questions at this stage?

PROF MACKAY: Just one, please, Chair. Would the Department be able to supply the Commission Panel with the notes from the community engagement meeting that was held on 10 May, please?

MS HARRAGON: Yes, we shall do so.

PROF MACKAY: Thank you. That's all from me, Chair.

MR DUNCAN: Thanks. Secretary, are there any questions, Lindsey or Jane?

MR L. BLECHER: Yes. Peter, I've got a quick one, if that's all right. Just on tree replacement, a lot of the trees are planted around the south side of the building, and it may be more of a question for the Applicant. But did the Department consider the risk that the trees won't reach maturity? And also, did they consider the potential .....

impacts of the trees if they do reach maturity, given it's quite a close relationship between buildings?

5 MS HARRAGON: So I guess the priority for the Department was the screening function. I would have to say, Lindsey, we will have to take that on notice in terms of the extent to which we've spoken about the solar access to ensure the maturity of those and whether, in fact, the maturity of those is counterproductive to the access that we're trying to gain for, in particular, 8 Vialoux.

10 MR BLECHER: Okay. Thanks. Can I ask one further question, if that's all right.

MR DUNCAN: Yes.

15 MR BLECHER: Thanks, Peter. So just on stormwater diversion – I note that the Applicant proposes to divert the stormwater, and Sydney Water appear to have submitted comments to the Department raising concerns about any structure above or within one metre of the infrastructure. Are you aware of any advice from Sydney Water to suggest that deviation is possible and any consultation between the applicant and Sydney Water or yourself and Sydney Water that suggests that's a possibility?

20 MS COOMAR: Sydney Water have provided with comments at the EIS and RTS stage. While they have indicated that as a general comment about the one metre, they have not raised any specific concerns regarding the diversion of the stormwater infrastructure.

25 MR BLECHER: Okay. Thank you.

30 PROF MACKAY: And I'm sorry, Chair. I do – it's Richard Mackay. I do have one last question request. I'm wondering if it's possible for Mr Toomey or the Department to provide the Panel with any report or comments from the State Design Review Panel. I mean, not only the new comment on the western façade, but the earlier comments that might have been received by the Department, please.

35 MS COOMAR: I have provided the comments to Lindsey. If you have not received it, please let me know, and I will send the comments again.

40 PROF MACKAY: Then it might be that I have received it and haven't yet got to it in the .....

MS COOMAR: That's all right. I understand. I'm happy to resend all the comments again.

45 MR TOOMEY: They're normally included as part of the EIS package, I think. But we're happy to provide that if necessary on request.

PROF MACKAY: Look, I will go searching, and perhaps we will come back through the office of the Commission if I can't find it. Thank you.

5 MR DUNCAN: Thank you. Thanks, Richard. I think that wraps up and we have another meeting to go to. But, Karen, I'd just like to thank you for the presentation and answering the questions that we had today. I think Lindsey will be in touch anyway. We can document any further questions that we might have but clarify those as well.

10 MS HARRAGON: Thank you for the opportunity given to the Department to present on its report.

MR DUNCAN: Thank you .....

15 MS COOMAR: Commissioners – thank you, everyone. Thank you.

MR DUNCAN: All the best. Thank you ..... thank you. Bye.

20 **RECORDING CONCLUDED**

**[10.52 am]**