



New South Wales Government
Independent Planning Commission

TRANSCRIPT OF PROCEEDINGS

RE: HELIPAD PENRITH LAKES (DA21/15298)

PUBLIC MEETING

COMMISSION PANEL: CHRIS WILSON (Chair)
 DR SHERIDAN COAKES

LOCATION: VIA VIDEO CONFERENCE

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TABLE OF CONTENTS

Presentation	Page No.
OPENING STATEMENT.....	3
GLENN SNOW, ALEXANDER SCOTT & FADI SHAKIR, NSW DEPARTMENT OF PLANNING AND ENVIRONMENT.....	4
MARK HARROLD, JOHN WYNNE, TOM AUBUSSON, JOHN BOOTH, APPLICANT AND REPRESENTATIVES.....	11
WILL LANGEVAD, BLUE MOUNTAINS CITY COUNCIL	23
PETER MORSON, CASTLEREAGH LANDOWNER	27
GEOFFREY BROWN, PENRITH RESIDENT	30
JOEL MACKAY, BLUE MOUNTAINS RESIDENT	33
WILLIAM KENNEDY	34
JAMIE LIM, WATERSIDE ESTATE RESIDENT.....	38
ROBERT PEARSON, WATERSIDE ESTATE RESIDENT.....	40
ADRIAN BOMAN, EMU PLAINS RESIDENT	42
CHRIS WYATT, PENRITH RESIDENT.....	43
TERRY HARRIS, CRANEBROOK RESIDENT	44
MARIA KEENAN, PENRITH RESIDENT	46
CLOSING STATEMENT	48

MR WILSON: Good morning and welcome to the Independent Planning Commission's electronic public meeting into the application for the Helipad Penrith Lakes Project. I'm Chris Wilson, I'm the Chair of the Independent Planning Commission Panel. Joining me is my fellow Commissioner Dr Sheridan Coakes. Before we begin, I would like to acknowledge the traditional custodians of the lands on which we variously meet and pay my respects to their Elders past, present and emerging and to the Elders from other communities who may be participating today.

10 Heliport Developers Pty Limited ("the applicant") is seeking approval for the construction and operation of a helipad facility in the Penrith Lakes precinct. I note the department in its assessment report has recommended approval. The Minister for Planning has asked the Commission to determine this application within eight weeks of receiving the final whole-of-government assessment report from the department. In line with regulations introduced in response to the ongoing Covid-19 pandemic we have moved the public meeting online with registered speakers provided the opportunity to present to the panel via telephone and video conference. In the interests of openness and transparency we are live-streaming proceedings on the Commission's website. A full transcript of today's meeting will also be published on the
20 Commission website in the next few days.

The Commission is a consent authority for this application because more than 50 or more unique public objections were received. This public meeting forms one part of the Commission's process. We have also undertaken a site inspection and met with the department, the applicant, Penrith City Council and Blue Mountains City Council. Transcripts from all these meetings and the site inspection notes have been published on our website. After the public meeting we may convene with relevant stakeholders if clarification or additional information is required on matters raised. Following the public meeting we will endeavour to determine the development application as soon as practicable noting that there may be delay if we find the need for additional
30 information.

Written submissions on this matter will be accepted by the Commission up to 5.00pm Australian Eastern Standard Time on Thursday, the 7th of July, 2022 and you can make a submission using the Have Your Say portal on our website, by email or post. Whilst individuals and groups may make any submission they consider appropriate, the Commission is particularly assisted by submissions that are responsive to the department's assessment and recommendations.

40 Before we get underway I would like to outline how today's public meeting will run. We will first hear from the Department of Planning and Environment on the findings of its whole-of-government assessment of the application currently before the

Commission. We will hear from the applicant second. We'll then proceed to hear from our registered speakers. While we will endeavour to stick to our published schedule, this will be dependent on registered speakers being ready to present at their allocated time. I will introduce each speaker when it's their turn to present to the panel. Everyone has been advised in advance how long they have to speak. A bell will sound when a speaker has one minute remaining, the second bell will sound when a speaker's time has expired. If you're still speaking with the second bell goes, I would ask you respectfully to make your concluding remarks.

10 If you have a copy of your speaking notes or any additional material to support your presentation, it would be appreciated if you would provide a copy to the Commission. Please note any information given to us may be made public. The Commission's privacy statement governs our approach to managing your information. Our privacy statement is available on our website. Thank you. It's now time to call our first speaker. Mr Snow, I understand you're online.

MR SNOW: I am.

MR WILSON: Glenn, I'll throw to you to introduce your team.

20

**<GLENN SNOW, ALEXANDER SCOTT & FADI SHAKIR, NSW
DEPARTMENT OF PLANNING AND ENVIRONMENT**

MR SNOW: Good morning all. My name is Glenn Snow and I am the Director of Transport Assessments. I'm here today with my colleagues Alexander Scott and Fadi Shakir. Just apologies, I've just lost my speaking notes, I'll just bring them up. Our presentation today will outline the department's approach to the assessment of the application and a key conclusion and recommendations made in the department's assessment report.

30

The application was referred to the IPC for determination as more than 50 public objections were received in response to the DA. We're going to focus today on our key issues that we identified in the department's assessment, these include permissibility, noise and vibration and flightpaths and operating hours. I'm going to hand over to Alex Scott who will now speak to those key issues that were considered in the department's assessment. Over to you, Alex.

MR SCOTT: Thank you, Glenn, and good morning everybody. My name's Alexander Scott, I'm the Acting Director of Freight Assessments at the department and I was involved in the assessment of this application. I'm going to discuss how the key issues in the department's assessment were addressed. I'll talk briefly about the

40

key issues in submissions to the proposal. I note that the department's assessment report includes a detailed response to all matters raised in submissions. The department received 241 submissions to the proposal from individuals and organisations, 200 of these were objections.

As the graph from this slide shows, the key issues raised were noise and vibration with 161 submissions, flightpaths and numbers with 94 submissions and operating hours with 73 submissions. The department agrees that these are the most significant matters for consideration in its assessment as well as the proposal's permissibility. I'll now talk the meeting through the department's assessment of these matters. I know the department also conducted a thorough assessment of all other matters raised in the submissions which is available in the assessment report.

I'll start by discussing the proposal's permissibility. This is a threshold issue because if the proposal is not permissible the development consent cannot be granted. A helipad is permissible in the tourism zone, whereas a heliport is prohibited. In order to determine the proposal's permissibility, it is necessary to determine whether it is properly characterised as a helipad or a heliport. The department notes that a helipad is defined as a place not open to the public, used for the taking off and landing of helicopters. A heliport is defined as a place open to the public that is used for the taking off and landing of helicopters, whether or not it included, (a) a terminal building or (b) facilities for the parking, storage or a pair of helicopters. The department, therefore, considers the main difference between a helipad and a heliport relates to public access.

The applicant has proposed operational and practical measures to exclude public access to the site. These include fencing and locked access to the site, access to the site restricted to invitation only, use of helicopter services are only by prior arrangement and exclusive use of the facility by the applicant in terms of operating helicopters in and out of the facility. The department is satisfied that, subject to these measures being implemented, the site will not be open to the public. The proposal would meet the definition of a helipad and would, therefore, be permissible with consent.

The department has recommended conditions binding the applicant to their proposed measures to exclude public access and requiring a helipad plan of management that, amongst other functions, details those measures to exclude public access. The department also acknowledges that submissions questioned the consistency of the proposed helicopter storage and maintenance facilities with the helipad definition. The heliport definition explicitly states that a helipad may or may not include a

terminal or facilities for the parking, storage or a pair of helicopters. The helipad definition does not explicitly allow or disallow such facilities.

10 The department considers that while the inclusion of these facilities is not determinative to the characterisation of the use as a helipad or heliport, whether the site is open to the public or not may be. In this regard the department notes that the proposal facilities for the parking, storage or a pair of helicopters would exclusively serve the applicant's fleet and would not be a service provided to other helicopter operators. The department is satisfied that these proposal facilities would be ancillary to the helipad use.

I'm now going to speak to the department's assessment of the noise and vibration impacts of the proposal. I note that the vibration impacts are within guideline criteria so my discussion will focus on noise. The department recognises the volume of submissions related to noise and considers noise as the key potential environment impact related to this proposal. The department engaged an acoustic consultant, Rob Bullen Consulting, to assist its assessment of the proposed, or the potential noise impacts.

20 There are no applicable guidelines specifically for helicopter noise in New South Wales. In the absence of guidelines the department has adopted a criterion of 48dB LAF 24 hour. In simpler terms this means an average noise level of 48 decibels over a 24-hour period. This has been derived from the Australian Noise Exposure Forecast or ANEF 20 criteria used to indicate acceptable aircraft noise levels for residential development in the vicinity of airports. It was then reduced to AMEF 13 to reflect the lack of existing aircraft noise impacts to receivers. An approximate conversion of AMEF to decibels is to add 35. So AMEF 13 becomes 48 decibels. The department notes that the Land and Environment Court has accepted this noise criterion in recent helipad and heliport cases.

30 The department assisted by our acoustic consultant conducted a very thorough review of the applicant's acoustic assessment. We required two revisions of this assessment. The first was to get assessment against the 48 decibel criterion and the second was to get further evidence to support the helicopter sound levels upon which the modelling was based. This last point was important to the department's review as the accuracy of modelling inputs is crucial to the accuracy of the results. To confirm the helicopter noise, department officers and its acoustic consultant attended supplementary test flights conducted by the applicant in April this year. We took noise measurements at the nearest residential property to the east and compared them to the applicant's
40 consultant's measurements. The department's noise measurements were consistent with the applicant's and confirmed the noise level used in the applicant's modelling.

The department is, therefore, satisfied that the model inputs and the modelling itself is sufficiently accurate. The noise model provided LAF 24 hour levels at four sensitive receivers. Two of these are residential. R1 where the testing was measured which would be the most effective residential receiver and R2 which represents the closest receiver in the Waterside Estate. Based on 22 flights taking off and landing from the eastern approach to the proposed helipad and 22 flights from the west, the modelled LAF noise levels are 46 decibels at R1 and 40 decibels at R2. Based on this modelling the department's satisfied the proposal could operate with proposed 25 models - sorry, 10 the proposed 25 flights per day provided that no more than 22 take off to the east. The department has recommended conditions requiring this. The department has also recommended conditions requiring the applicant to conduct further acoustic testing under live operational conditions to verify the model noise results and, if necessary, adjust operations to meet the noise criterion. This testing may be carried out within 90 days of commencing operations and then annually for a further four years.

I'll now move on to talk about the flightpaths and operating hours which were key issues raised in submissions. The department considers that the proposed flightpath as shown in this image avoid direct impacts on the regatta course and their curvature to 20 the south-east avoids direct over-flying of the Waterside Estate. The flights on these approaches have been modelled to meet the noise criteria. A significant number of submissions were from Blue Mountains residents and from the Blue Mountains City Council raising concerns about noise, biodiversity, Aboriginal cultural heritage and other impacts on the Blue Mountains World Heritage Area.

After take-off and landing, helicopter flights are primarily regulated by civil aviation regulations. A development consent has limited ability to control where helicopters can fly outside of take-off and landing because it can't regulate that activity. The department has considered the noise impacts of flights over the Blue Mountains by 30 using the modelled noise level for receiver R2 as a proxy for a hypothetical residential receiver in the Blue Mountains. The acoustic assessment notes that flights would pass R2 at an altitude of 1000 feet with an average noise level of 40 decibels. 1000 feet is the minimum flight altitude over populated areas that's prescribed by civil aviation regulations other than during take-off and landing. If noise levels at receiver R2 were complied with noise criteria there they would also comply at the Blue Mountains receiver if helicopters flew at that same 1000 feet minimum altitude.

The department has also considered operating hours. In terms of noise regulation 10.00pm to 7.00am are considered night time during which most people would sleep. 40 Noisy activities during this time period can be assessed as sleep disturbance. Should the Commission seek sleep disturbance assessment from the applicant to support

operation before 7.00am the department would be pleased to assist with its assessment. The department also acknowledges submissions concerned with evening flights and has recommended a condition limiting flights between sunset and 10.00pm to five flights per week. This concludes the department's presentation on the key issues of the application. Overall, the department concluded in its assessment that the proposal is permissible and the likely impacts of the development can be mitigated through the recommended conditions of consent. I'll now hand back to the panel.

10 MR WILSON: Thank you, Mr Scott. Mr Snow, we have a number of questions in relation to the department's assessment and we're probably likely to have some more by the end of the day following the submissions from the community.

DR COAKES: Mr Snow, I guess just clarifying based on Mr Scott's presentation. So if flights are to be allowed from 6.00am the department then is suggesting that additional noise work does need to be undertaken to assess that the sleep disturbance for operations between that 6.00am to 7.00am period. Obviously this is a key concern for the community so we would suggest that does need to be undertaken.

20 MR WILSON: If those hours are to be maintained.

DR COAKES: Yes, yes.

MR SNOW: Acknowledge that recommendation.

MR WILSON: Sorry, Mr Snow?

MR SNOW: Sorry, I acknowledge the recommendation and, yeah, and the department having to do further assessment if that's required.

30 DR COAKES: Okay. Thank you.

MR WILSON: Look, we'll stay on noise for a minute. Given the importance of those flightpaths to the noise assessment, how are they regulated those flightpaths?

40 MR SNOW: My understanding is that the flightpaths - the take-off and landing is regulated to the DA and that's the key area that we can regulate, but outside of those take-off and landing flightpaths that's a matter for civil aviation authorities. So the flightpaths form part of the development consent that take-off and landing flightpath form.

MR WILSON: I appreciate that but in terms of compliance and noise compliance and given the importance of those flightpaths and the ability of the operations to stick to those flightpaths to ensure appropriate noise outcomes, how are they regulated, how does the department ensure that that occurs, you know, up to 1200 or 1500 feet by the end of those take-off areas?

MR SNOW: In relation to the altitudes I would have to take further - I'll have to take on notice but the condition - sorry, the approval recommended consent does include requirements for monitoring and noise impacts.

10

MR WILSON: Okay. So maybe just part of the monitoring regime. Are there any measures to ensure that those flightpaths are adhered to apart from monitoring?

MR SNOW: Not sure. Alex, are you able to assist with this?

MR SCOTT: I am. I'm just reviewing the conditions. There are requirements for a helipad operations management plan that includes measures around take-off and landing areas and approach policies consistent with the documents in condition A1. That would also need to be - there's also annual compliance reporting against those planning management requirements which would also include requirements around using the approved take-off and landing approaches.

20

MR WILSON: Okay. Look, if there's anything more you can add to that we'd appreciate it. You can take - if you need to take the remainder on notice we're quite happy for that. Just in terms of movements. The applicant has provided movement numbers for 2017, '18 and '19 pre-Covid movements which averaged about - around, I think, about a thousand movements a year. My understanding is, and the applicant will probably tell us this in his presentation, that he was restricted to 1500 movements a year under his EPA licence. The current GTAs don't have any cap on movements and there's no cap on movements - I could be wrong, there's no cap on movements in the recommended consent, is that right? Is that your understanding?

30

MR SNOW: I'll commence with the answer. My understanding there are caps in relation to a number of flights per day but I'll hand over to Alex.

MR WILSON: I'm talking about - Mr Snow, I'm talking about annual caps. So my understanding is that the applicant's told us there's no way that he - he believes he's capped at 1500 but I can't find that anywhere, I'm just wondering if you're aware of that?

40

MR SNOW: I don't believe there's an annual cap in the consent but the caps are based on noise impacts to residents and receivers in the area and with the daily cap we believe that those noise impacts are within criterion if we're accepted.

MR WILSON: Okay. Look, we'll prosecute that further with the applicant but my understanding is that he feels he's capped at 1500 and that if he was to do 25 a day that he'd take up that cap within three months. So I'm just trying to get some understanding of how many movements are going to occur and whether or not an annual cap should be imposed. So that's fine, we'll ask the applicant that question. In
10 terms of permissibility, can you just tell me what invitation only means?

MR SNOW: Alex, can you please assist?

MR SCOTT: I can, I can. It will mean that people wishing to use the applicant's services would not be able to arrive at their premises with prior arrangement to access those services, they would need to be invited onto the premises by prior arrangement.

MR WILSON: Okay. So they simply can't just arrive at the site and book a flight, is this - I don't want to put words into your mouth. So they basically have to contact the operator by phone or by - or online and get his acceptance to accept their flight, is that
20 right?

MR SCOTT: That's my understanding, yes.

MR WILSON: Okay. Thank you. One more on contamination. Is the department - and we asked this question in the stakeholder meeting and, I guess, you know, as you're aware under the hazards and resilience set, and I think I've got that right, it's their new name, it's a prerequisite for us to be satisfied as a consent authority that the site is fit for its intended use. Is the department satisfied - noting that the EPA's
30 requested a DSI, is the department satisfied that it is fit for its intended purpose?

MR SNOW: I think we are satisfied that it can be made fit for its intended purpose just in case the further investigations that are required identify a potential risk. I can hand over to Alex for more detail.

MR SCOTT: I'd agree - - -

MR WILSON: Sorry, sorry, Mr Snow - sorry, Mr Scott, to interrupt but we're particularly interested because there's been a number of fuel tanks that have been
40 identified and we're having trouble locating them on site and whether or not they've been considered in the PSI?

MR SCOTT: They've been potentially identified. It's been identified potentially on the site and the requirement for a DSI would lead to further investigation so whether those fuel tanks are on site and the condition - the recommended condition for approval provide a requirement for a DSI and anything necessary for remediation of the site to ensure that it is fit for its intended purpose.

MR WILSON: Okay. That's all from me. Do you have anymore, Sheri?

10 DR COAKES: No.

MR WILSON: No. Thank you very much. As I said, we may have further questions, probably likely to have further questions by the end of the day but thank you very much for your presentation.

MR SNOW: Thank you, Mr Wilson.

MR SCOTT: Thank you.

20 MR WILSON: So next I will now call on Mark Harrold. Are you there, Mark?

MR WYNNE: Yeah, Mr Chair, it's John Wynne speaking. So I'll just do the introduction on behalf of the applicant if that's okay.

MR WILSON: Thank you, Mr Wynne.

**<MARK HARROLD, JOHN WYNNE, TOM AUBUSSON, JOHN BOOTH,
APPLICANT AND REPRESENTATIVES**

30 MR WYNNE: Yep, thank you. Thank you and good morning, everyone. John Wynne's my name, Director of Planning at Urbis. We're the planners acting on behalf of the applicant. I'm just going to really just introduce who's going to speak. We have three speakers this morning, we have Mark Harrold who is the proponent and he is the operator and intended owner to the facility, and he will provide you with an outline of the intended operations of the helipad and he can happily answer some of those questions that you have just raised. We'll follow that with Tom Aubusson, who is a specialist management consultant who's been involved in the - with the applicant in working with the Department of Planning regarding the acoustic and noise impact assessments, and we're just going to ask Tom to provide an overview of the key
40 considerations regarding acoustics and noise impacts to the focus points that were raised by yourself and the Commissioners just a minute ago. And then we're going to

close with just a presentation from John Booth, who is a colleague of mine here at Urbis, he's the town planner who's been responsible for the preparation of the environment impact statement and who's been working with the Department of Planning throughout this process.

10 So we - Mr Chair, we'll just take - each of those people is just going to take no more than five minutes and give you an outline but we are all available at the conclusion of that or at the conclusion of each of the speakers to answer any questions that you have and we will all be online for the duration of the meeting if there was anything that you
10 would like to know from the applicant's point of view. We will also take the opportunity, if we feel appropriate, to provide in writing any formal responses to issues that are raised during the day that we feel need any clarification. So if that's acceptable to you, Mr Chair, I will hand over to Mark Harrold.

MR WYNNE: Thank you, Mr Wynne.

MR HARROLD: Commissioners Wilson and Coakes, thank you. I just wish to take this opportunity first of all to confirm our acceptance of the Department of Planning Structure and Environment Assessment of a helipad proposal. It follows a rigorous
20 investigation and lengthy consultation process. Just by background my family's been associated with the Penrith area since the late 1960s and we have, as a company, been actively involved in supporting Penrith for the past 17 years supporting local community groups in that time. We are an important existing aviation service provider to the Sydney basin and the greater New South Wales having operated since 1984 and for the past 27 years from our Rosehill Heliport. We have a continuous support events like the Sydney to Hobart yacht race, Vivid, Sydney New Year's Eve fireworks broadcast and display in addition to our air transport activities. So fly many thousands of hours fighting bushfires in the Sydney basin, the Blue Mountains, Wollemi, Kanangra-Boyd and Yengo National Parks

30 In addition we're actively involved on a weekly basis with the land and water management operations within the Sydney catchment and that includes the Blue Mountains World Heritage Area. Our location to the Penrith - sorry, our relocation to the Penrith region came about due to the compulsory acquisition of our heliport at Rosehill which we learnt of during the Black Summer bushfires in 2019 and '20 and which we were deployed for some seven months. A thorough search for an alternative site was undertaken and resulted in the identification of the Old Castlereagh Road property where a complying development within the current planning framework and our impact on the immediate area and adjacent regions will be significant.

40

We meet all the noise criteria and guidelines which have been tested by conducting actual test flights over a two-day period. The entire 27-year tenure we had at our heliport at Rosehill we did not receive a single complaint with regard operations. No breach of any DA conditions or EPA licences. We operated within 350 metres of residential and tourism land holdings. Our proposed flightpaths are offset from residential suburbs, the size and shape of our site allows significant altitude to be achieved by aircraft and on take-off and approach, thus avoiding, completely avoiding any low level flight in the vicinity of any residential states.

- 10 We're a compliant operation adhering to all state and Commonwealth legislation. Our flying activities, as always, will be conducted in accordance with the Office of Air Space Regulation, Civil Aviation Safety Authority requirements and Air Services Australia. In flight operations conducted over the Blue Mountains whether they be for air transport or air work will be, as they have always been, conducted in accordance with these regulations. To single us out as an operator in an attempt to stop us from flying over the Blue Mountains would be a restriction not reasonable given that we can do so by complying with those Commonwealth air space regulations.

- 20 We do not propose any significant changes to the flight operations that we have conducted in the Sydney basin since being located at Rosehill since 1993. The bulk of our flying hours are, indeed, conducted away from our base and we are not a new aviation business. That's a point I want to make very clear. We've been around for many, many decades. The soon-to-be-completed Western Sydney Airport will operate on a 24/7, 365-day basis is locating closer to the Blue Mountains World Heritage Area than our helipad with considerable more movements. Tourism and the ability to conduct air transport activities is absolutely critical to the business's viability and allows for the permanent employment of skilled aircrew and maintenance staff on a 365-day basis.

- 30 Tourism and air transport revenues provide the stability to the business in order to invest in aircraft and specialised equipment required to provide the emergency service capability that we offer year round to the community. Our very existence has assisted with the reduce reliance on contracted overseas fire-fighting aircraft that are only available for a few months of the year. Businesses like ours do not just pop up overnight, they take decades to develop as do the skilled aircrew and engineers that we employ.

- 40 We've launched scores of careers in aviation over the years and continue to develop opportunities for new crews. We have in the past 12 months commenced a working relationship with Western Sydney University supporting their engineering, science and business faculties. This affiliation will lead to collaboration on aeronautical design

and research into bushfire activity and the development of ongoing aviation-related careers. We look forward to continuing to be a productive contributor and leader within the aviation industry in Greater Sydney, an industry that is already under extreme pressure from competing industrial and commercial land uses to the point where general aviation broadly is facing an uncertain future which, if lost, the brunt of the fallout will most certainly be felt by communities in their time of need. Thank you.

10 MR WILSON: Okay. Mr Wynne. Mr Wynne, should we move on to the next speaker please.

MR WYNNE: Yes, Mr Aubusson will now address on acoustic issues, Mr Chair.

MR WILSON: Thank you.

20 MR AUBUSSON: Thank you, Mr Commissioner. Alexander Scott's presentation previously was a good summary of the process that we went through for the determination of measuring aircraft noise levels and coming to the criteria. I just wanted to discuss how we arrived at ANEF 13. Originally we - there are previous guidelines such as the EPA Noise Control Manual and the Air Services Australia, these are not current at the moment. They'd previously nominated noise levels of 60dB for any residential development which is significantly more relaxed than the current ANEF proposal.

30 For example, ANEF 13 is 48 decibels, whereas Air Services Australia nominated 60 decibels so there's a 22dB difference between the two. So this is the most stringent criteria that could possibly be adopted and that is currently documented in any standard in Australia. So that's how we arrived at that. We've taken multiple measurements surrounding the site of aircraft movements and certification measurements with the department's acoustic consultant Rob Bullen to certify the noise levels of the aircraft, and that's how we developed the sound plan model which gives a graphical representation of the noise levels surrounding the site and that's how we determined compliance of the residential receivers surrounding the site. Essentially Alexander's presentation covered the rest of what I was going to cover so that's essentially the summary of what our assessment is.

MR WILSON: Thank you.

40 DR COAKES: Mr Aubusson, just a quick question around the noise. Can you just explain the use of the LAQ 24 hour noise assessment process in comparison to measuring noise across different time periods?

MR AUBUSSON: So the LAQ 24 hour is an assessment noise that's been averaged out over a 24 hour period. The EPA Noise Control Manual used to use something called an Lmax, which is the maximum noise level for one particular pastime, but this criteria is adopted by a standard called Australian Standard 2021 which is used for airports. So that's how we arrived at the LAQ 24 hour. It's also what was adopted from the Nessdee v Orange City Council Land and Environment Court and it's also been adopted in Tweed Shire Council documentation as being the appropriate criterion for new helipads.

10

DR COAKES: Okay. Thank you. And just one other question. Just in terms of obviously the locations where noise has been modelled, just confirming that the R2 receiver is actually on - as the department outlined is on - was taken at the Waterside Estate, is that correct?

MR AUBUSSON: As in it was modelled to the Waterside Estate or it was - - -

DR COAKES: Yes, yes, yes, modelled, yes.

20 MR AUBUSSON: Yes, we've modelled it on the Waterside Estate and the residents on Old Castlereagh Road, the nearest receivers as well.

DR COAKES: Okay. And you've also taken that R2 receiver as an indicator of noise more towards the Blue Mountains residential area as well, is that correct?

MR AUBUSSON: That's correct, yep.

DR COAKES: Thank you.

30 MR WILSON: Just on that, Mr Aubusson. So when the helicopters do take off to the west and fly over the Blue Mountains, will they be at a similar height to - what height will they be at in relation - like, for instance, if we're using the Waterside as a key identifier, what height will they be - - -

MR AUBUSSON: If you would like the exact number I would let Mark answer that but I believe it's 1200 feet but if it's okay I'd like Mark to confirm the exact number.

MR WILSON: And is that consistent with what would occur at Waterside, is it?

40 MR AUBUSSON: Yes.

MR WILSON: Okay. Thank you.

MR AUBUSSON: Mark, did you want to add anything to that?

MR HARROLD: Yeah, I can. Have you got me there?

MR WILSON: Yes.

MR HARROLD: Yeah. To comply with the Commonwealth airspace regulations we
10 can fly over certain areas of the Blue Mountains as low as 500 feet being an
unpopulated area; however, there is a very strict guideline that has been imposed with
regards flying over significant parts of the Blue Mountains World Heritage Area that
actually puts the aircrafts considerable higher, some two and half thousand feet. So
those regulations is what governs how we fly an aircraft. Typically the civil aviation
regulation requires that no aircraft, be it a helicopter or an aeroplane flies no lower
than 1000 feet above the highest point within a 300-metre radius of the aircraft over a
populated area. Okay.

Over a non-populated area you can go down to 500 feet and that is on air transport
20 operations. Under air work operations which the company has to be specifically
approved by CASA, which we are, that altitude can be considerably less and that will
be undertaking certain things like fire-fighting activities, lifting and construction
works, supporting National Parks, building walking trails for the National Park and
servicing those walking trails aircraft can operate lower.

MR WILSON: Okay. Thank you.

DR COAKES: And - - -

30 MR WYNNE: Sorry, Commissioner.

DR COAKES: Just one other question, Mr Harrold. So you've indicated in our
meeting that approximately 20 per cent of your activities are tourism-related. Just in
terms of that breakdown, of that 20 per cent what proportion would be sort of towards
that Blue Mountains region?

MR HARROLD: Very few. The Blue Mountains has been - I've actually provided
the information, I think, to the Commission. I think - going off the top of my head, I
think we had maybe 50 flights or so in a given year over the Blue Mountains in normal
40 sort of tourism or charter transport-type activities. Look, as I said, it would be grossly
unfair to limit us to not fly over the Blue Mountains if we're adhering to

Commonwealth regulations. We do everything in our business in accordance with our very heavily regulated industry and I don't know whether we'll fly 50 or 10 or 70 flights over the top of the mountains in a given year, but I can guarantee you that they'll be flown at the required altitude as specified under Commonwealth legislation.

DR COAKES: Yes. Okay.

MR WILSON: That's fine. Thank you very much.

10 MR WYNNE: Just - Commissioner, just while Mr Harrold's there, I just wanted to know whether you'd like him to make a comment about the flight path regulation question that you asked earlier.

MR WILSON: Well, I guess there's two questions that he could answer. It's in relation to the flightpaths, and how we ensure that those flightpaths are maintained. Well, there are a number aspects, actually, and are there any meteorological aspects that might warrant something different than those flightpaths? And the other question I guess we should - we'd like to confirm is, because we've been through the recommended conditions and the recommended GTAs, and we can't find any limit on
20 flights, but that's been quoted to us as been and understood, and we're just trying to understand where that - we understand that it's been identified that in '17, '18, '19, there was about a thousand movements each year. We're just trying to understand how that fits with that - what was it - limit on operations.

MR HARROLD: Sure. Okay. I'll speak to the flight path first, if that's okay. The prevailing meteorological conditions or wind, for that matter, is principally over the west or south-west. In Penrith, we don't get very strong easterlies at all, so the east-west alignment of the helipad property allows for, you know, an easy, swift sort of exit or departure into wind, going out to the west, and it's also the residential estates
30 are considerably further away to the west as well, so we're able to climb to an altitude of a thousand feet above the ground, now, within 600 metres of the actual helipad itself, 600 metres.

So in relation to recording our helicopter movements, our aircrafts are all tracked. We've got tracking devices in those aircrafts that we can - that are recorded, that record where those aircraft are. It's not for the public viewing, but it's certainly for our own SA, and, you know, monitoring of those aircraft, and those tracks are recorded. We also, as a requirement, when we're at Rosehill, under a similar situation, we had DA-approved flightpaths and we had to record each aircraft movement as to
40 which way it took and which way it landed, and that can be backed up by interrogating the tracking data of the aircraft at a later date, if anyone wanted to do so.

Obviously the only anomaly there, or the only change to that requirement would be the operation of emergency services aircraft, if indeed we were potentially working on a bushfire up around Devlin Street, or up around the fire trail road in sort of Cranebrook way, or then that aircraft could quite potentially just fly into the north to refuel and go back out, and recommence firebombing activities out there. That would be the only emergency services requirement.

10 So, yes, definitely the flightpaths work well for the prevailing weather conditions, and if indeed there is a strong wind flying from the west, and an aircraft is to arrive at the heliport, and it would necessitate the aircrafts flying into wind, that can be done with a left-based turn coming into the west, into wind, whilst over our own property, not actually going over a neighbouring residential property to the east.

MR WILSON: Okay. And thank you very much. What about the numbers that you were - you said at Rosehill that you were capped at 1,500 movements per year, is that correct?

20 MR HARROLD: Yes. So two very separate - two separate sort of conditions, if you like, or consents, as I understand - DA - and this is the same as the permission we had at Rosehill, there was a limit of 25 flights a day under the DA. Obviously that allows for, you know, a surge, I suppose - you might have a day where you get a number of flights for a particular event that we might be supporting. We supported the 2000 Olympic Games - who's to say there won't be some other event out here that won't require our support similar to that? So we need to maintain a number of flights per day.

30 However, the EPA licence that we awarded for the helicopter activities covers the number of movements per year from a given site, and it also covers or addresses the storage of fuel as part of our EPA licence, and the ongoing monitoring of that as a requirement to satisfy the EPA on guidelines.

So that's where those movements come in. At Rosehill we had a helicopter activities licence for 27 years, and that licence capped the movements on that site to 1,500 movements per annum.

MR WILSON: Okay. Thank you very much. I don't think - do you have any further questions?

40 DR COAKES: No - probably just one more, Mr Harrold. So obviously the noise assessment has suggested that noise can - obviously the noise criteria can be met at the

receivers, but just in terms of further reducing your noise, what sort of fly neighbourly aspects can be put in place?

MR HARROLD: Sure.

DR COAKES: Just - I think that would be useful for us to hear again, but also for the community who's listening in.

MR HARROLD: Yes.

10

DR COAKES: So, you know, what other can you do to obviously make that next step to further reduce your noise if possible?

20

MR HARROLD: Sure. We had a similar situation at Rosehill. We had Rosehill Gardens, which is the large racetrack, but there was a limit of 250 metres of the heliport facility there, which obviously stabled some very expensive racehorses, and also conducted racing throughout the year. So we had a fly neighbourly policy with the racecourse, such that we would not fly over the racecourse, particularly when they were doing trackwork in the morning for any sort of race day - we would fly laterally displaced from that racecourse, and typically favour a southern approach rather than a northern approach.

30

And we would do the same thing or propose to do exactly the same thing here in Penrith. We're happy to discuss with local - you know, appropriate stakeholders who live in close proximity of the helipad, but we're going to see the Office of Sport - we're already on a list of stakeholders, so we do get sent a list, a forward-looking list of events that are to be held at the Regatta Centre, and we can work with the Office of Sport and the operator, if you like, of those events to minimise any sort of disruption that may occur down the track, which I seriously doubt, but we're more than happy to sit with them and talk about flightpaths, and even, you know, hours of operation on a given day, if there was something that required it.

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In relation to the properties, we've already commenced discussions with the closest neighbour and we have assured them and working with them on minimising the number of flights that actually approach or depart from or to the east, and prefer that western approach. We can maintain a very high altitude, up to sort of 1,500 to 2,000 feet, depending on the weight of the aircraft at any given time, within, you know, a kilometre of the helipad, so we're still significantly high before we even start our descent into the helipad.

So the other issues that otherwise we can manage or conduct sort of a neighbourly, you know, conditions is to minimise any sort of blade slap of the aircraft, that's just a piloting technique to minimise the amount of slap on the blades as the aircraft is descending, and that's quite easy to do.

And, again, you know, the prevailing weather conditions from the west allow us to climb up very quickly and, you know, not overfly any suburbs that are, you know, located to the west of the helipad.

10 DR COAKES: Okay. Thank you.

MR WILSON: Okay. Thank you. I believe now we will hear from Mr Booth. Is that correct?

MR WYNNE: That's correct. Yes. I'll hand over to John Booth.

MR BOOTH: Thank you, Commissioner, and good morning all. So as noted by the previous members of the project team, we are fully supportive and endorse the findings and recommendations for the New South Wales Department of Planning and
20 Environment with regard to the DA. Are you all able to hear me?

MR WILSON: Yes.

DR COAKES: Yes.

MR BOOTH: Okay. Thank you. So the application that was triggered as a designated development, and has required a highly detailed and considered environmental assessment, responding to the various secretary's environmental assessment requirements that were issued by the department in September of 2021.
30

Since this time, the project team have put forward a robust and comprehensive application that has demonstrated both the suitability of the proposed site, as well as the acceptable environmental, economic and social impacts associated with the application.

The key consideration of the application is the strategic and statutory context of the site and how the proposed helipad is not only permissible under the tourism zoning of chapter 5 of the Western Parklands SEPP, but the proposal directly aligns with the zoning objectives.
40

The proposed development directly complements the Penrith Lakes scheme of achieving its vision of being a major recreation facility for both the population of Western Sydney. The department, within their report, acknowledged this and stated that the proposal will provide a different tourist activity to those currently existing within the Penrith Lakes scheme, and will promote tourism within wider Penrith.

10 Crucial to the application is the permissibility of the proposal. The application has been identified as a helipad, a permissible use under the site zoning, and is appropriately categorised this way given the nature of the proposal as close to the public.

“Close to the public” is not defined - is the defined difference between a helipad and heliport under the standard instrument. Whilst “close to the public” is not defined under the standard instrument, Sydney Helicopters proposes substantial measures to exclude members of the public from accessing the site, and these include onsite security measures, including fencing and locked access to the site, which can only be opened by the operators to prevent unauthorised access to the site.

20 Not operating helicopters from the helipad facility that any member of the public can access, purchase a ticket or board a flight, exclusive use of the facility operation by Sydney Helicopters and restriction of access to the site from other helicopter operators, and lastly public access to the site is restricted to invitation only by Sydney Helicopters.

30 The permissibility of the proposal is confirmed with legal advice supporting the application, and the department has similarly endorsed this definition, reflecting it within their recommended conditions of consent. The DA has been assessed against heads of consideration contained within the Environmental Planning Assessment Act, and which we believe merits approval for the following reasons.

The proposal satisfies applicable State planning controls and policies relative to Civil Aviation Regulations, land use and permissibility, and noise and vibration. The proposal satisfies the planning controls and policies contained within chapter 5 of the Western Parklands SEPP and the Penrith Lakes Development Control Plan, including being permissible development in the tourism zone, satisfying the objectives of the zone, and satisfying relevant provisions relating to airspace safety, flood planning, tree removal, traffic management, heritage considerations, construction management and other matters.

40 The application proposes minimum built form and would have a negligible impact to the existing site, surrounding land uses, or any properties within the proposed

flightpaths. The proposal and site selection has been endorsed for its attentive merit with regards to emergency response, including endorsements from the New South Wales Rural Fire Service, Fire and Rescue New South Wales and Penrith City Council.

The social, economic and environmental impacts arising from the proposal are minimised and mitigated through site suitability and project design, and will be enforced by appropriate plans and management, as recommended within the department's draft conditions.

10

And finally, the proposal is in the public interest, as it facilitates the relocation of a longstanding and successful Sydney-based business which has provided a range of community and emergency services while crucially introducing no adverse impacts.

Overall, we consider the department's report provides an accurate and balanced assessment of the considerations relevant to the determination of the DA, and we support that the conclusion that the proposal is recommended for approval, subject to appropriate conditions of consent. Thank you.

20 MR WILSON: Okay. Thank you, Mr Booth. I think in fairness to everyone else, we need to wrap up your presentation now.

MR BOOTH: Sure. Thank you.

MR WILSON: So, Mr Wynne, is that okay? We have to move on.

MR WYNNE: That's absolutely fine. Thank you. Yes. Thank you very much.

30 MR WILSON: We're lucky to have additional questions. We're certainly interested in what occurs before 7am, so we'll be in touch or draft something up at the end of today's meeting.

MR WYNNE: Okay.

MR WILSON: Okay. So we'll now move on to Blue Mountains City Council, and Mr Langevad, I'm fearful I've mispronounced your name.

MR LANGEVAD: No, you're very close, Commissioner. Very close. I'm William Langevad, the Director of - - -

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MR WILSON: Langevad. I'm sorry.

MR LANGEVAD: - - - the Environment and Planning Services at Blue Mountains City Council.

MR WILSON: Okay, thank you.

<WILL LANGEVAD, BLUE MOUNTAINS CITY COUNCIL

10 MR LANGEVAD: The council's submission is informed by legal advice prepared by McPhee Kelshaw Solicitors under council's instructions. Those instructions concern the characterisation and permissibility of the proposed development. That's the sole focus of today's representations. The council's full legal opinion will be made available to the Commission in the council's further written submission.

As the Commissioners are aware, the DA is supported by an EIS prepared by Urbis which states specifically, and I quote, "This DA is seeking consent for the construction and operation of a helipad facility."

20 By way of summary, council's submission is firstly, the proposed development is not appropriately characterised as a helipad. Secondly, the proposed development is most appropriately characterised as a heliport, subject to determining the meaning of the words "open to public", as used in the definition of the heliport and in the context of proposed development as described by the applicant.

The proposed development would be prohibited under the state policy. Alternatively, if the proposed development is not open to the public, which is contrary to our view, then the proposed development and its essential elements would most appropriately be characterised as predominant use, and would be prohibited under the SEPP.

30 As you're aware, the SEPP provides that any word or expression used in the SEPP has the same meaning as prescribed the standard instrument. In common with every standard instrument LEP in New South Wales, the SEPP distinguishes between a helipad and a heliport.

The legal distinction within the New South Wales planning system between helipads and heliports is critical or orderly development and strategic planning, not only in the Blue Mountains region, but across New South Wales. As indicated previously, the application, supported by the letter of advice prepared by Norton Rose Fulbright Lawyers, which considers this necessary distinction. I will refer to that as "the
40 applicant's legal advice."

The question of helipad and heliport, the definition of helipad is quite simple. A helipad is a place used for the taking off and landing of helicopters. In addition to a being a place that's used for taking off and landing of helicopters, a helipad is not open to the public.

10 The definition of heliport is more complex than the definition of a helipad. A heliport is also a place used for taking off and landing of helicopters; however, in contrast to a helipad, a heliport is open to the public. Further, and this is significant, a heliport, in contrast to a helipad, may include the following - a terminal building or facilities for the parking, storage for a pair of a helicopters. The definition of helipad does not
20 leave open the possibility that a helipad may include the nominated facilities that may form part of a heliport.

The proposed development is described in a number of points in the EIS. There's some variation between the description given on different pages. The various descriptions of the proposed development in the EIS do not, however, explain the way in which the members of the public may book a journey by helicopter, utilising the applicant's services as presently extended, or explain how tours and helicopter bookings will be arranged as the new facility on the property is established. These
20 submissions are significant and material, given the applicant's assertion that the new facility will not be open to the public.

The applicant is introduced in the EIS as Sydney Helicopters or a commercial helicopter operator who had been providing chartered flights, tours and emergency services around the Sydney basin since 1985. The application does not relate to the establishment and use of a simple helipad. The application relates to the relocation of the existing heliport operations conducted by Heliport Developers Proprietary Limited. The new facility will provide hangar accommodation for the applicant's helicopter fleet and facilities, for the maintenance and operation of that fleet. As touched on
30 under the definitions of helipad and heliport, those elements may be part of the heliport, but critically they cannot form part of a helipad as sought in the application.

In terms of the Environmental Protection Licence, or the EPL, the EIS confirms that the applicant has commenced engagement with the EPA about transferring the EPL. This acknowledge confirms that the activities proposed by the applicant once its due facility is established will fall within the POEO Act, and will, amongst other matters, involves the use of buildings for parking, servicing or maintenance of helicopters, and will require the grant of an EPL as described in the EIS. A helipad does not allow
40 establishment of such facilities.

The EIS usefully provides a list of existing helipads in the Blue Mountains. I'm familiar with each of those sites - the Blue Mountains Hospital, the Glenbrook and Blackheath NPWS Depots, Valley Heights RFS and the Katoomba Scenic World. If the Commission is familiar with any of those sites, the list provided by the applicant throws into stark relief the clear distinction between a helipad as defined and a heliport as defined. None of the helipads identified by the applicant are self-sufficient and self-sustaining developments. The helipad in each case is a facility that serves either a New South Wales Government facility or a much larger development conducted for entirely purposes than the purpose of a helipad.

10

Then the critical question of open to the public. We understand the EIS as submitted on behalf of the applicant proposed to you this facility will not be open to the public. On this basis, the EIS suggests that the proposed new facilities, regardless of the infrastructure incorporated, is a helipad and not a heliport. For the reasons given above, we disagree with that conclusion, but it is appropriate to consider whether the new facility will be open to the public.

20

The applicant's website confirms the applicant is inviting the public to utilise the applicant's services by booking tours or charter flights. The applicant extends an invitation to treat, in the classic business sense, any member of the public who wishes to deal with it and who is prepared to pay the fees that are charged by the applicant for that service or experience.

In that context, it is immaterial whether the applicant owns all the helicopters that it operates or stores, or that those helicopters are in a secure facility. The applicant offers to transport members of the public and utilises its helicopters to do so.

30

Adopting the wording of the applicant's legal advice, the applicant's proposed facility on the property is intended to be one, and I quote, "which the public may access and use for air transport purposes." As proposed, and again I quote, "the general public will be able to enter and use the facility."

The issue of public access was usefully and further considered by the Full Court of the South Australian Supreme Court in the decision of Zarella in 2012. Adopting the reasoning of the Full Court in Zarella, the applicant's proposed facility will be open to the public, because the applicant has extended and will continue to extend an express invitation to members of the public to utilise the applicant's facility.

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The applicant's helicopters stored, parked and maintained at the facility will be available for booking and use by members of the public for the purpose of tours, charters and point-to-point flights.

In conclusion, council's submission is that the applicant's proposed development is not a helipad. This is consistent with the submission made previously by Blue Mountains City Council. It was also identified as an issue by Penrith City Council in its submissions to the department dated 2nd of December 2021 in relation to the DA.

10 Our conclusion that the proposed development is prohibited is also consistent with the submission made by Urbis to the department on the 11th of May 2020. In section 2 of that submission, under the heading "Permissibility and Planning Pathway", Urbis then stated, and I quote, "The principle purpose of Sydney Helicopters' operations is a commercial facility open to the public for hire and recreational flights, the provision of emergency services and the repair and maintenance aircraft. Given this, the proposal is more consistent with the definition of heliport than helipad."

Urbis was correct. The proposed development is more consistent with the definition of heliport than helipad. The EIS prepared by Urbis in support of the development application simply reverses that submission.

20 The EIS appears to advance the proposition that this proposed development, when operated, will not be open to the public, then it must follow that the proposed development is a helipad not a heliport. That conclusion is a fallacy. The conclusion does not address the nature of the development, and the reality that helicopters will be stored, parked, and maintained. Although we consider that there are very sound reasons for concluding that the proposed development will be open to the public, the appropriate characterisation of the development will not be determined solely by reference to that factor.

30 The suggestion that the applicant's legal advice, that the various facilities making up the proposed development, the large hangar and maintenance facilities, the offices, lounge, et cetera, are ancillary to the conduct of a helipad, in our opinion, the contrary conclusion should be reached. They are essential to its conduct. The capacity of the site to accommodate those facilities is a substantive reason why the applicant proposes to relocate its entire operation.

In our opinion, the proposed development is appropriately characterised as a heliport. As a result, the proposed development is prohibited in a tourist zone, regulated by the SEPP. Given that circumstance, the development application must be refused.

40 The council provides full legal advice to the Commission. It is requested in the public interest that any legal advice secured by the department on characterisation of

permissibility should also be released, given the significance of this matter for environmental planning generally.

The council thanks the Commission for the consideration of its submissions.

MR WILSON: Thank you, Mr Langevad. Sorry. In relation to time in the provision of that advice?

MR LANGEVAD: We can provide that in the next couple of days, Commissioner.

10

MR WILSON: Okay. Thank you very much. Appreciate it. So our next speaker is Mr Peter Morson. Are you there, Mr Morson?

MR MORSON: Yes. Hi there. Hello.

MR WILSON: Thank you.

<PETER MORSON, CASTLEREAGH LANDOWNER

20 MR MORSON: Hi. My name is Peter Morson. I'm the landowner of 39 to 45 Old Castlereagh Road, Castlereagh, two blocks to the east of the subject property. I'm talking today to object to the application of the de facto heliport in its entirety. I reject the position of the submitted legal advice that the proposal is a helipad. The application is a proposal for a heliport by stealth. Effectively this is the same application for the heliport, which was on a submission in 2021, which at the time and is currently not permitted use in this zone.

I reject the assertions within the acoustic report prepared by Acoustic Logic and subsequent independent acoustic review prepared by Rob Bullen, that "the noise
30 impacts on the surrounding precincts and zonings are acceptable". They are not. The surrounding land uses are of a passive, quiet and peaceful recreation nature, and in addition to providing for competitive sport.

The impost of the heliport and its daily operations will totally destroy the objectives of the surrounding uses, not to mention the surrounding tourism zonings which permit hotel and tourist accommodation. You might as well rezone the entire precinct surrounding this heliport as an industrial land to accommodate the proposed use of the heliport.

40 I reject the assertion that this site is the only place in New South Wales where the Sydney Helicopters could be relocated to. You might as well say that there is some

open space in Centennial Park and we could put it there, and it's an equally absurd assertion.

It is extremely disappointing that, if approved, the unique recreational asset available to the people of Penrith, Blue Mountains and Western Sydney will be totally destroyed. This precinct has been an asset to the - potential asset to the community after the rehabilitation of the mines, and it's going to be another missed opportunity for the people.

- 10 The Department of Planning are not an independent assessing body as they have a financial interest in the need to relocating the existing heliport from Granville, therefore we'd request a separate, independent body carry out an assessment of the application or at least a review.

I make the following comments in relation to the documentation submitted by the applicant. The survey plan is incomplete, and inconsistent with the architectural drawings. The survey does not show the following details: the existing building to the west, western side of the access road and other buildings which can be seen on the aerial image, which were previously shown on the WMK drawings as demolished.

- 20 The revived architectural plans are now showing hard-stand area as existing; however, this area is not shown on the survey plan as existing, so we ask what is correct? What has happened? Has it already been built? We don't know.

Architectural drawings - they show the hard-stand area adjacent to hangar as existing. However, the previous documents show the hard-stand area as proposed. Has this work been completed already? Clarification is required.

- 30 The revised demolition plan does not show the existing buildings previously shown as to be demolished. Have these buildings been demolished already? Clarification is required. It's unclear.

With reference to the FATO, the architectural drawings are missing critical information. The drawings do not show any hard-stand areas or surface materials, whether they're existing or proposed, which define the FATO, nor is there any indication of how the FATO is accessed, be it defined pathways or roadways for transporting the helicopters on the ground or parking areas to or from the hangar.

- 40 The FATO is not defined by any perimeter markers on the plan, nor is any H-marker defined on the plan. The hard-stand area does not define any areas of helicopter parking. It is not clear on the plans as to what the hard-stand area is to be used for. Based on the helicopter's current configuration at Granville, the hard-stand area is

used for the parking of four helicopters, so what is the hard-stand area to be used for, we ask? We can only assume to facilitate the taxiing by hovering helicopters back and forth from the FATO, and the parking of helicopters.

As referenced in many of the other submissions, there is no reference to how many internal movements will occur throughout the day to taxi the helicopters from the FATO to the helicopter parking, hard-stand area or hangar. The need for helicopters to hover, to taxi from one point of the site to the other, further exacerbates the intensity and the use of this proposal, making it blatantly clear that this proposal is a heliport
10 and not a helipad, which indicates a singular use and minor in nature.

The proposed hangar plan of the - shown on the drawings provides no detail as to the operations within the hangar storage, repairs, maintenance et cetera - no details shown whatsoever.

The proposed plan DA101 references a FATO as an undefined blue hatched area which is devoid of any dimensions or boundary setbacks. Boundary setbacks are required to clearly identify the exact location of the centre and external edge of the FATO. Without these dimensions, the FATO could literally be anywhere on the site
20 or any size or any number of FATOs within the site boundaries. This misrepresentation of the proposal is misleading and deliberately vague.

Without defining the physical attributes of the FATO, the ambiguity surrounding the nature of the proposal itself is further exacerbated. The undefined, vague location of the FATO gives rise of the applicant to undertake multiple take-offs and landing positions across the site at any given time.

Given the vague and open-ended scale of the FATO, the proposal, in its current form, gives rise to the true nature of the proposal, being a heliport and not a helipad, given
30 the scale and potential movements possible, as proposed in the architectural plans. It's a de facto heliport. Why don't we just tell the truth and hear from the truth? We note that the clear area between the existing buildings on the site, where the FATO is shown, is approximately a hundred metres across, which is a vast area.

To finalise, I'd just like to say that, simply put, helicopters are a conflicting operation within this precinct. This site is surrounded by recreational and tourism uses which would suffer from the impost of the noise, wind turbulence, dust and impacts of a heliport, and it's totally unacceptable.

40 In addition, we don't see any consideration to the potential case of incidents - for example, helicopter crashes - which happen regularly, and helicopters can crash and

impact on people using the surrounding recreational areas, which is a risk which needs to be addressed and acknowledged.

That's all. Thank you very much.

MR WILSON: Thank you, Mr Morson. Just confirming, you're at 39 to 45 Old Castlereagh Road, is that correct?

MR MORSON: That's correct, yes.

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MR WILSON: Thank you very much, and thank you for your submission. I now - we're now having a short break, if that's okay. Thank you. We'll be back very soon.

SHORT ADJOURNMENT

[10.12am]

MR WILSON: Welcome back, everybody, after that short break. I would like to now invite our next speaker, which is Mr Geoffrey Brown. Mr Brown, are you there?

20

MR BROWN: Yes.

MR WILSON: The floor is yours, Mr Brown.

<GEOFFREY BROWN, PENRITH RESIDENT

MR BROWN: Okay. Yes, thanks for this opportunity. I'm getting a terrible echo through the phone. A terrible echo. I can just - hello. Is that better? Okay. I'll just push on.

30

I've lived in Penrith for nearly 50 years. I've lived in Cranebrook since 1991. In 2007, I was a member of the Penrith Lakes Community Advisory Community. I was - joined that committee on the basis that I represented the community view that the Penrith Lakes be protected for passive recreation uses only, not for industrial or residential development. And the Commission would be aware that many of the submissions opposing this helipad made that clear, that the Penrith Lakes is seen by the community as an area to be set aside for public recreation, for passive recreation, that the lakes would be remediated to allow that revegetation, some apparently beaches, so opportunities for the public to recreate. And the local politicians made that clear, that Penrith Lakes would be protected for recreation purposes, so this is a

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long-held view of the public that Penrith Lakes is to be used for recreation. So a helipad or heliport is totally incompatible with this public expectation.

The Commission would be aware that Sydney Helicopters or Heliport Developers is concurrently seeking to have the Penrith Lakes SEPP 1989 amended to allow a heliport as a permissible use. So in the Sydney Helicopters submission to the draft amendment to the SEPP, on page 3, by Urbis, they clearly say, “The principal purpose of Sydney Helicopters’ operation is a commercial facility open to the public for hire and recreational flights, the provision of emergency services, and the repair and
10 maintenance of aircraft.” Given this, the proposal is more consistent with the definition of a heliport than a helipad.

So - and they go on to say, “As part of Sydney Helicopters’ discussions with the DPIE,” the Planning Department, “it was recommended that a submission be made to the proposed SEPP amendment to request that a heliport be added as a permissible land use. Such an amendment would result in permissibility of Sydney Helicopters’ operation.” So that was echoed by the Will Langevad from Blue Mountains City Council.

20 So what we have here is a proponent saying two different things to two different audiences, in regards to proposed land use. They clearly say in the SEPP, “The principle purpose of the Sydney Helicopters operation is the commercial open facility open to the public for hire and recreational flights, the provision of emergency service and the repair and maintenance of aircraft. Given this, the proposal is more consistent with a definition of a heliport than a helipad.” So it is clear the intended use of the land is a heliport. Penrith Council’s submission also urges the Commission to carefully consider the difference between a helipad and a heliport.

30 So the Planning Commission would need to definitely consider and carefully consider the legalities of its decision, and should obtain its own legal advice as to whether it’s a heliport or a helipad.

So I have a question: so if the Penrith Lakes SEPP is amended, which is concurrently happening at the same time, to allow a heliport, will Sydney Helicopters have to lodge a DA for a heliport, or does a helipad DA approval, which is what we’re going through now, morph into a heliport?

40 So hopefully that is clear, so I’m asking - so if the SEPP is amended to allow a heliport, will they then have to go and lodge a DA for a heliport? Or does this helipad DA just magically morph into a heliport? And this DA should - I think should be

deferred until the Planning Department actually fully considers the Penrith Lakes SEPP amendments.

So in regards to noise, I live approximately 2 kilometres from the proposed helipad, probably a bit more. I can hear helicopter noise emanating from the Penrith Lakes clearly from my house. I believe that the noise impacts to local residents will be significant and have been underestimated by the proponent and the Planning Department.

- 10 Noise-monitoring devices should be located within the Waterside housing estate. So I believe the department is going to do some monitoring for a certain period of time, and those monitoring devices should be located where people live, not on the corner of Andrews Road and Castlereagh Road, which is not where people live. They should actually locate it inside Waterside Estate.

- The proposed operating hours are way too generous. The take-off and landing time should commence no earlier than 7am, and could conclude by 6pm. So they should be within sort of further restricted and within business hours. Operating hours should be further restricted on Sundays and public holidays. I'm sure that there's other
20 presenters that are following me that will address noise issues in more detail. So at this stage, that's about my submission. Thank you.

MR WILSON: Thank you very much.

MR BROWN: So I've got that question, if someone could answer it?

MR WILSON: We're not here to answer questions, I'm sorry, Mr Brown, but I'm sure you can - - -

- 30 MR BROWN: Okay. I hope you put that to the proponent.

MR WILSON: The proponent or the department would - - -

MR BROWN: Or the department, yes.

MR WILSON: Yes. I would suggest that you - if you want to ask the question to the department, they may give you a response - - -

- MR BROWN: Okay.
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MR WILSON: - - - given that they're the authority responsible for considering whether or not that SEPP should be amended. I would now like to call on Mr MacKay. Hi.

<JOEL MACKAY, BLUE MOUNTAINS RESIDENT

MR MACKAY: Hi. Thank you. Thanks for the opportunity to address the meeting today. I'd also like to just begin by acknowledging that I am coming to you today from stolen and unseated land, the land of the Darug and Gandangara people in the beautiful Blue Mountains. I acknowledge their traditional Elders and owners, past, present and emerging, and their custodianship of this land for many thousands of years. I also thank the many participants of today's meeting, and it's great to see a lot of interests in this proposal, and the many submissions to this process as well.

And I'm following what seems to be many experts. I'm not a planning or helicopter expert, but I definitely join today as an advocate for the Blue Mountains, our beautiful city within the World Heritage area, and also as a champion of our unique way of life and the unique environment we enjoy.

Of primary concern proposed Penrith Lakes helipad is the impossible impact that it will have on the Blue Mountains environment and our local residents. The helipad proposal does not yet include any significant information and proposed flightpaths from the subject site, the routes that tours and scenic flights would take, and it doesn't consider any environmental impacts on the surrounding areas over which these flights will proceed.

People don't live in the Blue Mountains to hear helicopters buzzing above their villages or above the beautiful environment that we enjoy. And I know this sounds like a typical Nimby point of view, but it also needs to take into consideration the bigger picture. For example, similar to people choosing to live in the Blue Mountains for these reasons, people don't travel to the Blue Mountains, pumping money into a local economy, creating local jobs and supporting local families, to go into a walk, deep into our World Heritage area, to go helicopter-spotting. They're going to that beautiful environment to see wildlife, to see the beautiful views, and to enjoy the peace and quiet.

As mentioned in several in the submissions also, there has been limited to no explanation to the potential impacts to biodiversity that this proposal will have. Again, impacts to biodiversity will have real community and environmental impacts on the people of the Blue Mountains.

The application openly acknowledges that scenic flights would be proposed over the Blue Mountains. Iconic locations are those that we all know - the Jamison Valley, the Three Sisters. I just can't bear to think what impacts to the local economy, to the local environment, that such flights would have.

And it's also particularly to note that sites like these and others throughout the Blue Mountains have significant impact in the - sorry, significant importance to the Gandangara people, and in fact, this location is gazetted as an Aboriginal Heritage Site, as a significant Aboriginal place, and that shouldn't be disrupted.

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I'll just finish by noting that it's really disappointing to see supporters of this proposal and the proponents hide behind such an idea as something exciting for Western Sydney. It's true that in Western Sydney we miss out on a lot of what the rest of the state does, of the local jobs, of exciting tourism proposals and opportunities, but we shouldn't have to sacrifice our way of life or sacrifice our environment to get these opportunities, and it's very disappointing to see this proposal try to take advantage of that.

I thank you very much for the opportunity to contribute today.

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MR WILSON: Thank you, Mr MacKay. I would like to now call on Mr William Kennedy. Mr Kennedy, are you there? You're on mute, I think, Mr Kennedy.

MR KENNEDY: Yes. I think I'm off mute now.

MR WILSON: You are. Thank you very much.

<WILLIAM KENNEDY

30 MR KENNEDY: Okay. Well, thank you, Commissioner Wilson and Commissioner Coakes for the opportunity to address you. The applicant has for many years operated a heliport near Parramatta. The application before you says that the applicant is now seeking to relocate their operation and that they're seeking operational activities consistent with the existing EPA licence. The applicant's recent RTS reiterates that the proposal is to establish a new location for the existing operation. The development is described as a helipad and there's an amendment to the legislation that would make heliport a permissible use installed.

40 The applicant states significant delays with the advancement of the proposal to amend the Penrith Lakes SEPP to include heliports as permissible development has necessitated Sydney Helicopters submitting this application for a helipad. What they

now characterise as a helipad and the operations to be conducted from the proposed facility are apparently the same as they've been conducted at the Parramatta heliport and that would be conducted from the previously-proposed heliport. According to the EIS the services include flood and emergency relief, water-bombing and hazard reduction and other services to customers such as transport, aerial photography, survey, joy flights, tourism and other services.

10 In the case of *Mornington Peninsula v Fox*, Judge Dickens observed that a heliport and a helipad are quite different things. A helipad being "no more than a place where a helicopter can land and does land". A helipad is just an open space intended to facilitate access to adjacent property as hospitals often have helipads, resorts sometimes have helipads and a few private residences have helipads. When an issue involving helipads comes before the courts they always concern simple landing places adjacent to the property to which they provide access.

20 By contrast, according to the applicant this new Nepean Aerospace Park would be Sydney's only standalone helicopter facility providing year-round air transport services and emergency aerial fire-fighting capabilities including passenger lounge, viewing areas, training facilities and secure overnight car parking. The applicant states the development will be Sydney's only standalone helicopter facility. By placing it in a category with Sydney's other heliports, all of which are located in airports rather than in a category with a helipad do stand alone adjacent to resorts and hospitals, the applicant reveals that he accepts that it is, in fact, a helipad - sorry, a heliport.

30 This is not surprising as the facilities from which helicopter businesses operate are universally known as heliports. I can find no precedent for granting a helicopter business permission to operate from a facility characterised as a helipad. Sydney Helicopters is a helicopter business wherever it is based is a heliport. Transferring a factory to a residential suburb does not make it into a residence and the applicant's heliport at Parramatta is not in turn a helipad by transferring its operations to Penrith. This is all pretty obvious. I suspect that everybody involved in this proposal could see that the development is a heliport. It's common sense. But, Commissioners, it's more than common sense, it is also the law.

40 It is non-contentious within New South Wales the legal difference between a helipad and heliport, the latter is open to the public. If it were open to the public there would be no dispute as to whether the facility is a heliport; thus, the matter rests entirely on the legal meaning of the words "open to the public". Leading cases *Ryan v The Nominal Defendant* in the Supreme Court of New South Wales Court of Appeal, both the applicant and the department have cited *Ryan* but both have misrepresented the

judgment. In determining the meaning of the phrase “open to the public” Acting Justice Santow analysed the number of possible circumstances. Concerning places from which the public is physically barred from entry his Honour stated, “Places may be entirely physically closed to the public. Then it would be wrong to view them as not open to the public if the landowner had by his or her actions effectively signalled that the public were invited to enter.”

10 It is important at this point and clearly understood physical barriers to entry are not relevant if the landowner has made a public invitation. That means the only question - and let me emphasise - the only question you need to answer is whether the applicant extends an invitation to the public. The applicant’s website states as an example, “Whether you’re visiting our city for the first time or a Sydneysider looking for an exciting new experience Sydney Helicopters will give you a tour like you’ve never seen before. We look forward to giving you a tour of our city that you won’t forget.” This and many other similar statements which are directly addressed to all of the more than 99 per cent of Australian adults who have access to the internet are undeniably invitations to the public and by law the unavoidable consequence is that the facility is open to the public is a heliport and is prohibited.

20 Commissioners, the law is clear and simple and I have no doubt the Land and Environment Court would see it that way. However, lawyers acting for the applicant and regrettably also for the department have raised irrelevant matters to confuse the issue and to mislead you. There are very few direct legal precedents involving heliports but the applicant has referenced *Nessdee v Orange City Council* in the Land and Environment Court. In that case a winery sought to establish a new helicopter business to be operated from its existing helipad; thus, turning the helipad into a heliport. Like the current case the change did not require significant building work as existing buildings would be adapted.

30 The judgment of Chief Justice Preston shows that there’s a fundamental difference between the existing helipad and the proposed heliport was that the helipad simply facilitated visits to the winery while the proposed heliport would be the base for the helicopter business. In its EIS the applicant provides a list of characteristics that it claims would make the facility a helipad and not a heliport. I do not have time to go through the characteristics but I would like to note that the characteristics put forward by the applicant are entirely of its creation and do not draw on any legal authority. In fact, the helipad in *Nessdee* appears to have the very same characteristics but as it hosted a helicopter business his Honour did not note that it was a heliport and not a helipad. The characteristics described are simply not relevant to determining whether
40 the development is a heliport.

The department attempts to rationalise finding that the facility will not be open to the public by posing four questions. Two of the questions seek to establish that there will be physical security measures. As is demonstrated by Ryan the physical security of the facility is just not relevant. The department's other question seek to establish that the public invitations are actually not to the public but only to a subclass of the public, the subclass being people who respond to the invitation. Following the department's logic there can be no such thing as a public invitation because no matter how widely distributed, no matter how thoroughly published the invitations would only be to the subclass of the public who respond.

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The department knows, or at least it should know, that this argument is barren. It is settled law that those who respond to an invitation do not form a subclass. This area of the law has been crystal clear at least since the 1964 decision of the full bench of the High Court in *Lee v Evans*. In the words of Justice Kitto of the High Court, "The expression 'invitation to the public' means an invitation made to the public generally and capable of being acted upon by any member of the public". In the eyes of the law it is a public invitation as soon as it is made and what happens subsequent to the invitation does not affect the nature of the invitation. It cannot be denied that the invitations on the applicant's website are addressed to the public generally and it cannot be denied that any member of the public is capable of acting upon the invitations.

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As I've already shown, the only question that requires an answer is whether the applicant has extended an invitation to the public. That question is unequivocally answered by considering the applicant's website in light of the High Court's words. Commissioner Wilson, Commissioner Coakes, it concerns me that you are required to use the department's assessment as a starting point for your determination. Because of the limited time available to me, I have dealt only with the issue of permissibility and in respect of that, however, it is most disturbing that the department raises irrelevant issues and that it misrepresents the law.

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I've described two misrepresentations but the department's actions go beyond misrepresentation. I've not done a critique of the department's assessment but even a relatively casual reading discloses an unrelenting partisan attitude. In focusing solely on reaching its predetermined outcome, the department illustrates why the public has so little trust in the planning system and also why public trust generally in our institutions of governments is failing. I'm modestly encouraged to see that the Commission's stated objective is to build trust in the New South Wales planning system. The Commission and the department both formally require the Commission is (1) be independent and objective, (2) be fair, open and transparent, (3) deliver robust

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determinations, and (4) encourage effective community participation. I look forward to those attributes being given practical application in your reasons.

I will close by summarising the legal dialect that resolves this matter. (1) Following the High Court the applicant extends an invitation to the public. (2) As a result and following the New South Wales Supreme Court, the facility - I just have two more sentences, if that's okay. As a result and following the New South Wales Supreme Court, the facility is open to the public. (3) As a result of applying the dictionary and standard instrument, the development is a heliport. (4) As a result and applying the state environment planning policy, the development is prohibited. Commissioner Coakes, Commissioner Wilson, thank you for your attention.

MR WILSON: Thank you, Mr Kennedy. I would now like to call Jamie Lim.

<JAMIE LIM, WATERSIDE ESTATE RESIDENT

MR LIM: Good morning, Commissioners. My name is Jamie Lim. My family and I live at Waterside Estate Cranebrook. My house is less than 1000 metres from the proposed helipad site; therefore, if this proposal is approved we will be directly affected. We purchased our house 15 years ago to be away from any airport and flight path. We wanted to live in a quiet suburban community to raise our family and not to be exposed to aircraft noise. We love Waterside for its tranquillity and peacefulness just like many residents who call Waterside home. I would like to make five points why I'm objecting this DA.

Number 1. The hours of operation from 6.00am to 10.00pm is too long and will significantly affect the quality of life for local residents. As a mother, children's health and wellbeing is our number one priority. Children typically go to bed from 7.00pm to 7.00am so children's sleep is going to be disrupted in the early morning and at night for five nights per week. Power tools and equipment can only operate between the hours from 7.00am to 8.00pm so why are helicopters which generate more noise and vibration be allowed to operate beyond these hours.

Also DPE failed to address the impact of intermittent noise. Noise that stops and starts at irregular interval is considered to be more annoying than continuous noise. Many people work from home these days. Many scientific literature acknowledge that adverse health impact when exposed to intermittent noise as well as impact on children's cognitive development. It is inadequate to simply measure every sound level over 24 hours and they're not even approved to operate over 24 hours. The important factors to be considered are the frequency and the individual overflow noise by using the maximum sound level when assessing the noise impact on residents.

Number 2. The distance from the proposed site to Waterside resident in the DPE assessment is incorrect. The report indicates that the distance is 1300 metres; however, the houses which back onto Castlereagh Road are 960 metres away. This alters the distance of the nearest point along the flightpath towards the site, as such any predicted noise measurements provided in the DPE's report may be skewed and inaccurate. It is worth noting that this predicted measurements are without consideration of weather conditions.

10 Number 3. Any noise complaint monitoring and reporting must be transparent and independent. DPE puts the proponent in charge and requires the proponent to monitor noise and to report annually. The proponent must notify the public of the complaint telephone; however, there is no transparency if the proponent is in control of their own noise management and monitoring. The public must be able to directly report any noise issue or non-compliant to an independent body. Also local residents must be provided with appropriate sound monitor equipment for this purpose. Commissioners, I ask you to please investigate who can regulate in-flight helicopter noise and who can independently investigate and address the reported noise complaints and ensure corrective actions are taken.

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Number 4. No penalty is imposed for non-compliance. There is no mention of any penalty to the proponent if found non-compliant or any resolution offered to resident if impacted by noise over the threshold. DPE should impose conditions that acoustic treatment and noise barriers must be provided to impact the resident if helicopter operation is found non-compliant.

Number 5. DPE failed to address the number of emergency services engaged by the proponent and there is no noise abatement plan. DPE states that the condition on operating hours and number of flights do not apply to helicopter movement associated with emergency services. According to the article dated 17th December, 2021 on the local newspaper The Western Weekender the owner of Sydney Helicopters said "90 per cent of their operation is fire-fighting, flood relief, powerline inspection work ... and a comparatively small amount is tourism." This is direct quote taken from the paper. If a large percentage of proponent's operation is considered essential and of emergency nature they are excluded from the DPE conditions, allowed to fly at any altitude, any flightpath outside the proposed hours on top of the 25 flights per day. Commissioners, please put this into consideration and reassess the impact on local residents, reduce the hours of operation, further reduce number of flights to minimise frequency and exposure of intermittent noise. Thank you for your time.

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MR WILSON: Thank you very much. Thank you, Ms Lim. I would like now to call Robert Pearson.

MR PEARSON: Hello, can you hear me?

MR WILSON: Yes, Robert, we can hear you.

<ROBERT PEARSON, WATERSIDE ESTATE RESIDENT

10 MR PEARSON: Good morning. My name is Robert Pearson, I am a Waterside resident. Thank you for this opportunity to make my submission. I wish to make a number of comments across a range of issues relating to this DA. In relation to the letterbox drops, too few of the Waterside Estate residents received the letter of advice from Planning. The letter did not contain a direct link to the specific DA and the website that was given made it difficult and frustrating to find the DA documents. My understanding is that the letterbox drops were aimed to inform all residents at the Waterside Estate about the DA and to simplify the process of making a submission by providing a direct link to the specific DA.

20 It's my observation that the leaflet distributed around our estate contained basic information obtained directly from the DA submission and despite reports in the local press they were not misleading or untruthful in their content. With regard to the semantics of a helicopter versus heliport versus Nepean Aerospace Park it appears to me that the only reason that the current DA is for a helipad is that a heliport would not be allowed under the current lake scheme SEPP. The definition of a helipad versus heliport appears to come down to a technicality, semantics or legal opinion. I note that the company that commissioned the legal advice with regard to this was identified as Heliport Developers Pty Limited and that Sydney Helicopters' website describes the current Cranebrook Road site as Nepean Aerospace Park.

30 I argue that the scale of operations proposed in the DA are much more than that of just a helipad and it more closely resembles a heliport, i.e., hangars for up to nine helicopters, refuelling from 30,000 litre storage tank, an onset helicopter maintenance business, 10 staff and an administration building. If the magnitude of the proposed infrastructures are equivalent to a heliport then the negative impacts upon the lake scheme and local community would also be equivalent to that of a helicopter. I've been told that Sydney Helicopters has already put in a submission to amend the SEPP to allow the development of a heliport at this site. I hope this is not correct. It appears to me that the current DA is just the first step and their intention is always to develop
40 the site as a heliport as soon as the way is clear. I argue that this DA should be

rejected as it proposes a helipad in name only and it is of a scale equivalent to that of a heliport and that their next DA will most likely be for a full heliport.

With regard to the issue of noise, the noise impact assessment has been found to have some shortcomings by Penrith Council, the EPA and others including me. I know that the background noise levels measured on Castlereagh Road have been found to be significantly lower than those given in the Noise Impact Assessment. Also helicopter noise measurements need to be corrected by up to 10dB according to EPA noise assessment guidelines and a USACERL report that I've referenced in my first
10 submission. This is done because the throbbing low frequency sound is subjectively much more noticeable and annoying than non-tonal background noise.

The Noise Impact Assessment gave noise limits of 82 and 85dBa. These levels are still subjectively very loud. In my first submission I questioned where these exposure limits came from. I now ask if these levels can be justified and are they out of date as many of us now work from home. I look forward to being able to examine and comment upon the revised Noise Impact Assessment when it becomes available. The Waterside and greater Cranebrook is already subject to frequent helicopter noise, it's
20 intrusive, disturbing and penetrates into our homes. We don't want any more helicopter noise. Quite simply the proposed hours of operation together with a potential up to 50 helicopter movements per day is not appropriate given the proximity to the proposed location for a large residential area. To be blunt, the unique environment and peaceful amenity of the Waterside Estate will be severely compromised.

Concerning flight corridors and take-off and landing, should the DA be approved then I strongly suggest the EPA licence prohibit flying over or nearby residences. I suggest that take-offs and landings on the eastern side and approved flightpath be considered taking off initially from much more southerly direction. Thank you again for this
30 opportunity to speak.

MR WILSON: Thank you, Mr Pearson, appreciate your submission. I'm just confirming Chris Wyatt's not here yet. So on that basis I will move next - Adrian Boman, are you online?

MR BOMAN: Yep, online.

MR WILSON: Are you happy to speak now, Adrian?

40 MR BOMAN: Yep.

MR WILSON: Thank you. The floor is yours, Adrian.

<ADRIAN BOMAN, EMU PLAINS RESIDENT

MR BOMAN: All right. Thank you. Yeah, thank you for listening to my concerns over the helipad. I'm just an Emu Plains local resident. I've had experience with helicopters that fly around here occasionally without a heliport and I find them horrendously noisy and invasive and the thought of having a permanent arrangement of helicopters in the local area I find it's going to be a permanent thing and annoying addition that we can do without. It's not just from your home, like I live at Emu Plains 10 which is probably five kilometres from the Penrith Lakes, but in the local area wherever you go, like tend to be in the Penrith Valley, we'll be at work at Penrith, might be at the river, I do consider all that river area and Penrith Lakes to be a recreational area and a quiet area away from traffic noise and road noise and people generally.

So there's a lot of people in that area now, a lot of development, there's high-rise units and, of course, lots of housing surrounding Penrith Lakes and it's a good outlet for people to use or somewhere to go away from noise in general. I don't really - I think it 20 should be described as a heliport, like a relocation from Rouse Hill as a tourism business. I think the heliport is just a way to get a foot in the door approach for the development. Yeah. Poor development or planning decisions like can make life not good, want to move away from the area. Helicopters being one, the Eastern Creek incinerator, we got Western Sydney Airport, got diesel trains running over the Blue Mountains and underneath overhead wiring which I find is extremely noisy and uncalled for or not a great decision, could be made a better, quieter of using things or just inappropriate things that we can do without.

Flying - in the helicopters keep saying that they want to fly to the west to avoid flying 30 over Penrith and they're going to go over Yellow Rock and Mount Riverview, Emu Heights, that's all in that direction. So if you look on a map they're surrounded within a pretty close radius of residential things and people. Yeah. With the Planning Commission I thought they were vague on their flightpath monitoring and same with the amount of helicopters. Like I said, occasional helicopters are bad enough but operating 6.00am till 10.00pm that's - like 25 helicopters is nearly one every hour which is a lot. Yeah. So I don't know, I'm opposed to it and work shift work so the hours of operation I'm going to be usually asleep. I work at night so, yeah, the hours of operation there's no use if it's in the day or the night to me. Anyway, thanks for your time. That's all I've really got to say.

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MR WILSON: Thank you, I really appreciate your submission. We will now go back to Mr Wyatt. Mr Wyatt, you here?

<CHRIS WYATT, PENRITH RESIDENT

MR WYATT: Yes, I am, thank you. Thanks for the ability to present what I believe are the most significant yet overlooked issues affecting the application to approve the development of a so-called helipad at 100 Old Castlereagh Road, Castlereagh. As a resident of both the lower maintains and Penrith for some 45 years I have been
10 watching multiple press releases about the fantastic public access plans for the Penrith Lakes Development Scheme. 32 years later we are now being presented with the first non-Olympics development to be a likely disguised industrial heliport on tourism-zoned land. You can understand the frustration of both myself and many other residents.

The four most significant issues are, number 1, the basis of this application is a legal opinion seemingly commissioned and paid for by the applicant that dictates that the sole difference between a heliport and a helipad is that a helipad has no public access; yet, totally ignores that only a heliport can have, and I quote the planning dictionary, a
20 terminal building, facilities for parking, storage or repair of helicopters as has been well discussed by previous people. Also a helipad is for the landing and taking off for helicopters, nothing about storage, maintenance or refuelling. This so-called legal opinion includes the word “mischievous” which seems strange in such a document. Unfortunately that document has been removed from the application so it’s no longer available to be read.

With the huge amount of funds and resources being spent on this application it is concerning that an independent opinion has not been sourced. As other people have said in the Urbis response to submissions they are clearly proposing a helipad in
30 operation to be eventually turned into a heliport to replace their Granville facility. Now, their Granville facility is one of three businesses on that site, all to do with helicopters which all appear to be interlinked, one of which is a major maintenance facility which would allow promote the use of that facility for helicopters other than from their own companies. That’s number 2.

Number 3. On the DP assessment, and I won’t go into the - well, it’s assessment report section 5.2, paragraph 75. It lists several objectives within the Western Sydney Parkland SEPP. Nothing within these objectives allows the development of even a helipad, never mind an industrial heliport. The original application contained an
40 investigation of some 32 alternative sites that was fully redacted except for the result that says this was the only suitable site. Without the criteria and any reasoning how

can we trust that this investigation was not skewed or even, indeed, complete. Has the Independent Planning Commission checked this document for accuracy?

10 Number 4. Sydney Helicopters have spent significant funds on this site with the obvious intention of building a heliport. They apparently believe it will happen soon. Helicopters are currently parked on the site so they're already using it as a heliport. I have no fight with Sydney Helicopters. Whilst they obviously prefer this site as the owners live nearby they have been financially damaged while waiting for the rules to be bent and allow their operation to fully proceed. To me this garden path is getting longer for everyone involved.

Much of the remaining text in the application appears to be there to fulfil requirements, specifically noise but generally it covers up the key issues. A person more suspicious than I may be looking for a hidden agenda and finally, as the state Independent Planning Commission I believe you have the authority and even the reasons for being to significantly protect the use of Penrith Lakes. Please use your authority to let the community finally use the land for the purpose it was intended, not industrial heliports. Thank you again.

20 MR WILSON: Thank you very much. I would now like to call Terry Harris. Terry, are you there? You're on mute, Terry.

MR HARRIS: Can you hear me now?

MR WILSON: Yes.

<TERRY HARRIS, CRANEBROOK RESIDENT

30 MR HARRIS: Yes. Thank you. Thank you for the opportunity to speak. I appreciate the previous speakers and really appreciate the fact that they've managed to investigate the writing so much. I'm not a very educated person and going through the reams and reams of documents becomes very ambiguous for me and very difficult to do so I really appreciate the previous speakers and totally agree with what they have said. I found that there was ambiguity in the documents when I read them, not that I was able to read very well but in one document it says it's going to be light to dusk, in another spot it says 7.00am to 10.00pm.

40 Now, there's a very big difference between those hours daylight to dusk in summer and winter. This also - I have my wife who has - does shift work as well, so she doesn't get home till late so having a helicopter go across at 5 o'clock in the morning will seriously disturb her sleep and cause her sleep deprivation. She also suffers from

osteoarthritis so she struggles through the night a lot of time sleeping. So that early morning time is when she actually sometimes finally gets to have a full sleep. Having a helicopter fly over and back will be totally disturbing to this and will cause her health issues and more than likely depression.

I myself travel for work and sometimes get in late - work from late flights and have the same issue. We also - I note about the noise of helicopters. We've had a lot of helicopters hanging around our area for various reasons. There was some incidents a while back where there was criminal incidents and two Polair helicopters were
10 hanging around and the noise was absolutely - it was very annoying and it was very difficult for us to hear our television, to actually communicate and was very frustrating. So when I look at the flightpaths which isn't that far from my house, I live in 29 Shellbourne Street, Cranebrook for any reference. I'll end up having to listen to the throbbing of helicopters day and night which when I bought the property I was actually originally looking in Blaxland to buy but didn't buy because of the future of the Western Sydney flightpaths. I thought, no, I don't want to be anywhere near that.

I don't live anywhere near Castlereagh Road so when I found in the document to complain, yes - well, you've got Castlereagh Road, it will be quieter than that. Well, I
20 live so far away from Castlereagh Road that I don't hear it and there's only a small number of residents who live along Castlereagh Road and they actually have a wall behind them which helps mitigate the noise because I actually looked in those properties to buy and particularly listened for Castlereagh Road. So I find that submission that the road is noisy is not really viable.

I find a lot of the ambiguities again with the heliport and helipad. I noticed that and I didn't quite understand the difference, now I do but I just feel like other speakers that it's being snuck through so us residents - it all gets passed and too bad, we've got to put up with it. If this - and I seriously hope it does not happen - is put into effect and it
30 says the flightpaths will be away from us except in times of emergencies or wind conditions or, et cetera, other mitigating factors, when my experience has been with a lot of things, once it's in and they start flying over what recourse have we got to complain. Do they just get a slap on the wrist and told you shouldn't fly over that area and just keep doing it because for them it makes it easier for them and we're just sort of basically given lip service.

So I would like to actually to say that I'm dead against this development. I even would go to say that maybe we should put it next to a politician's house and see what he thinks because I'm sure you'll find that they will deny it. So, yeah, I'm definitely
40 against it and I think that the damage, the noise and the prices and the reputation and my sleep deprivation will be a serious impact to my health and to the environment

around the use of Penrith Lakes. Thanks for listening to me and I hope you take my feelings on board.

MR WILSON: Before you go, Mr Harris, just confirming, Shellbourne Place, where is that in - - -

MR HARRIS: Shellbourne Place is next to Laycock Street. So when you come from Andrews Road and they propose that they're flying over the industrial area and Andrews Road has industrial on both sides of Andrews Road. So we're basically
10 about 200 metres, maybe 250. I walk there every night and it's about a five minute walk and believe me, helicopters when they've been in that sort of area I can hear them while I'm watching TV and have to turn the television up when they've been doing things so it will definitely affect me.

MR WILSON: That's near Gannet Drive, is it, or off - - -

MR HARRIS: Yes, yes, yes, we're not far from Gannet Drive.

MR WILSON: Okay.
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MR HARRIS: And I rented in Gannet Drive before I bought my property and you can definitely hear - we could hear a bobcat digging - building an industrial development right on the other side of the little creek where we live.

MR WILSON: Okay. Thank you very much. Appreciate your submission.

MR HARRIS: Thank you.

MR WILSON: I would like now to invite Maria Keenan. Are you there, Maria?
30 Maria, you're not very clear at the moment, I'm just wondering if you can adjust your microphone or - it's just dropping in and out, Maria. Do you want to try again?

MS KEENAN: Yep.

MR WILSON: That's it. Just sit back a bit, just sit back. Now talk, see if that's better.

<MARIA KEENAN, PENRITH RESIDENT

40 MS KEENAN: I'm speaking on behalf of my mother, Nora Del Seno, who has resided at 47-65 Old Castlereagh Road from 1955 and we're right next door to the

proposed helipad. Mum's witnessed much change over these years mainly with the lakes development when 10 acres of her land was acquired by the government under compulsory acquisition, Penrith Lakes Scheme. You know, she's had to endure construction, noise, trucks, dust, a lot of inconvenience while they mined the land before construction of Penrith Lakes began and we're not opposing change but I've heard a lot of things that, you know, we were really not aware of.

10 Mark has been very, you know, forthcoming with information regarding, you know, flightpaths which we really do appreciate because east to west would just be terrible and coming from the other side it has been a lot better, you know, he's informed us if, you know, there's going to be an extended period of time or the situations change which we have appreciated but listening to this information this morning there's a lot that sort of, you know, I wasn't aware of. The difference between the helipad and the heliport we were not aware of all this. You know, mum's concerns are, you know, the 25 flights a day, the starting, you know, at 5.30 in the morning till 10 o'clock - - -

20 MR WILSON: Maria, can you just - can I just ask you to talk directly to the camera. Sorry, because you're just dropping out a bit and we want to hear every word that you say. So if you just - I understand you might be reading from a submission, that's fine, we have no problem with that but if you could just - that way - we just don't want to miss recording any of your concerns so can you just give it one more go and I'll give you a thumbs up.

30 MS KEENAN: Okay. So mum's concerned the flight times, you know, 5.30 in the morning till 10 o'clock at night being - you know, we're so close, we're right next door. You know, 25 flights a day, we're concerned as residents about that. You know, our beautiful area that, you know, we've been privileged because I live with mum, to live in and how it's going to all impact us and it will impact so many people. You know, and as I said, the flightpath coming from where it's coming now and the amount of flights that have occurred, you know, you know like when - and mum lives here and there's been Defqon, there's been Australia Day, there's been a lot of things that she says, Maria, you know, it's good for Penrith, it's good for the area and, yes, you are inconvenienced but this will be long term, this will be - you know, and where does it go from here, you know, and what else can happen and because I find it all very overwhelming I'm just speaking to you on behalf of my mum who has lived here for all these years and loves the - you know, the peacefulness and what the lakes have done so far for all the people of Penrith, you know, and what's to say like that if the flights are coming east to west and it is going to be directly over mum's head, what if they stop coming at, you know, from the way - that Mark has said they've assured us 40 that they will and we'd be grateful like that is going to happen but it could change and, you know, 25 flights per day from 5 o'clock, you know, it's one every hour.

I don't know how that's going to impact everybody, like it's going to be so very different, you know, and we're just concerned, you know, mum had to give up 10 acres of her land, what's going to happen to the land and the area, you know, that's starting tourism now and, you know, what can occur. So, yeah but that's what the concern is and how can we be reassured. I know Mark has said that he will be considering all this but it is a business venture and unfortunately things can change. Thank you.

10 MR WILSON: Maria, we've read both your submissions and thank you very much for that. We missed a few words, did you prepare a submission for today to assist you in your presentation? And if you did would you like - is there anything you missed in your - was it all in your - - -

MS KEENAN: No, no, no, it's what I had to say. Just, you know, mum can't really, you know - - -

MR WILSON: No, that's okay.

20 MS KEENAN: Mum's 91 and she can't really say too much but in conversations with her when I've had the conversation, this is what she's tried to explain to me.

MR WILSON: Okay. I think it's very clear.

MS KEENAN: And (not transcribable)

MR WILSON: I think those concerns are very clear and we thank you for that.

MS KEENAN: Thank you.

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MR WILSON: Okay. Thank you very much. Look, thank you everybody who's participated today. That brings the end to this public meeting and to the Helipad Penrith Lakes Project. Thank you to everyone who has participated in this important process. Dr Sheridan Coakes and I have appreciated your input. Just a reminder that you still have time to have your say on this application. Simply click on the Have Your Say portal on our website or send us a submission via email or post. Deadline for written comments is 5.00pm Australian Eastern Standard Time, next Thursday, 7th of July.

40 In the interests of openness and transparency we'll be making a full transcript of today's meeting available on our website in the next few days. At the time for

determination the Commission will publish its statement of reasons for decision which will outline how the panel took the community's views into consideration as part of its decision-making process. Finally, a quick thank you for my fellow Commissioner Dr Sheridan Coakes. I would also like to thank the officers of the IPC and technical support staff for making today's meeting possible noting there were major technical problems this morning and thank you for watching. From all of us here at the Commission, enjoy the rest of your day. Good morning.

10 **MEETING CONCLUDED**

[11.31am]