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## **TRANSCRIPT OF PROCEEDINGS**

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TRANSCRIPT IN CONFIDENCE

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O/N H-1648379

### **INDEPENDENT PLANNING COMMISSION**

#### **MEETING WITH COUNCIL**

#### **RE: RANDWICK COMPREHENSIVE PLANNING PROPOSAL – GATEWAY DETERMINATION REVIEW**

**PANEL:** **PETER WILLIAMS (CHAIR)**  
**ADRIAN PILTON**

**ASSISTING PANEL:** **STEPHEN BARRY**  
**PHOEBE JARVIS**  
**HELEN MULCAHY**

**COUNCIL:** **KERRY KYRIACOU**  
**STELLA AGAGIOTIS**  
**NATASHA RIDLER**  
**COUNCILLOR BILL BURST**  
**COUNCILLOR KATHY NEILSON**  
**COUNCILLOR DANIEL ROSENFELD**  
**COUNCILLOR DANNY SAID**

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

**DATE:** **11.06 AM, FRIDAY, 28 JANUARY 2022**

DR P. WILLIAMS: Good morning and welcome. Before we begin, I would like to acknowledge the traditional owners of the land from which we virtually meet today and pay my respects to their elders, past, present and emerging. Welcome to the meeting today to discuss the Randwick Comprehensive Planning Proposal –  
5 Gateway Determination Review, reference number GR 2021 12 PP-2021-4267, which is currently before the commission. The planning proposal is for a comprehensive review of the Randwick LEP.

10 Relevant to the gateway review request, the planning proposal sought to firstly introduce a new exempt development provision in the LEP to limit the number of days that non-hosted short-term residential accommodation can operate in the calendar year to a maximum of 90 days, secondly, to introduce a local character overlay to the LEP, inclusive of clause mapping and definition to give effect to three  
15 local character areas, being the bays, the northern coast and southern coast and, thirdly, to rezone the site at 1903R Botany Road, Matraville from RE1 Public Recreation to RE2 Private Recreation in response to a landowner request.

As I said, my name is Peter Williams. I'm chair of this commission meeting and I'm joined by my fellow commissioner, Adrian Pilton. We're also joined by Stephen  
20 Barry and Phoebe Jarvis from the Office of the Independent Planning Commission and Helen Mulcahy, who is assisting the commission. In the interest of openness and transparency and to ensure the full capture of information, today's meeting is being recorded and a complete transcript will be produced and made available on the commission's website.

25 This meeting is one part of the commission's consideration of this matter and will form one of several sources of information upon which the commission will base its advice. It is important for the commissioners to ask questions of attendees and to clarify issues whenever it is considered appropriate. If you are asked a question and  
30 not in a position to answer, please feel free to take the question on notice and provide any additional information in writing, which we will then put up on our website. I request that all members here today introduce themselves before speaking for the first time, and for all members to ensure that they do not speak over the top of each other to ensure the accuracy of the transcript. So we'll now begin and, Kerry, good  
35 morning.

MR K. KYRIACOU: Morning, Peter.

40 DR WILLIAMS: How are you? Would you like to - - -

MR KYRIACOU: Good. Good.

DR WILLIAMS: Good. Would you like to introduce yourself and also I – well, and then I would ask all of the councillors and other council officers to introduce  
45 themselves, too, please.

MR KYRIACOU: Sure. Kerry Kyriacou, I'm director of city planning at Randwick City Council, and Stella's our manager of strategic planning. Stella, do you want to go next?

5 MS S. AGAGIOTIS: Good morning, everyone. Stella Agagiotis, I'm the manager of strategic planning.

MR KYRIACOU: Natasha.

10 MS N. RIDLER: Yes. Hi, everybody. Natasha Ridler, coordinator of strategic planning.

MR KYRIACOU: And we have a number of councillors with us here, too, today, Peter. So, councillors, who wants to go first?

15

MR D. ROSENFELD: Okay. I'm Councillor Daniel Rosenfeld, councillor for central ward at Randwick Council.

DR WILLIAMS: Morning.

20

MS K. NEILSON: Councillor Kathy Neilson, north ward.

DR WILLIAMS: Kathy, good morning.

25 MR D. SAID: Councillor Danny Said, south ward.

DR WILLIAMS: Danny, good morning. Okay. I'll - - -

MR B. BURST: Bill Burst, south ward.

30

DR WILLIAMS: Bill, sorry, I - thank you. Thank you.

MR BURST: I snuck in - - -

35 DR WILLIAMS: Thank you, Bill. Okay. Thanks. Well, look, sorry, as I've alluded to before, Kerry, I think, we should hand it over to you first. Sort of, any opening - general opening statements you want to make and, really, how you want to present to us is fine.

40 MR KYRIACOU: Yes.

DR WILLIAMS: I'll leave it in your hands, and we did have some questions in advance.

45 MR KYRIACOU: Yes.

DR WILLIAMS: But also we might have some other questions, obviously, that arise during the - - -

MR KYRIACOU: Yes. Certainly, Peter.

5

DR WILLIAMS: Your presentation. Thanks, Kerry.

MR KYRIACOU: Yes. No, that's great, and thanks for the opportunity. Stella's going to commence with some opening comments and, yes, we have prepared a presentation and some documentation in response to the questions that the commission has put to council. So it would be really good to, sort of, spend most of that time just having that dialogue around the issues that we – are before us today. So, Stella, do you want to start off?

MS AGAGIOTIS: Thank you. Thank you, Kerry. Thank you, everybody, and hello, councillors, and thanks for joining us. I'd just like to start by saying that the comprehensive LEP that we're currently preparing is well advanced. We are now planning for our community engagement period, which is coming up, and we received gateway determination by the department in September of last year. So the three matters, as you mentioned, are the short-term rentals rental time period, the local character statements and the land – the open space land at Matraville.

We have a short – a quick presentation, as well, to support what we're saying, and Natasha will run that as we discuss it, and these – I'd just like to emphasise that these matters are quite important for our – for the work that we're doing. It supports good planning for our area and, importantly, the community has been involved in coming up with a lot of these provisions, so particularly when we were preparing our vision – what we called our vision 2040 work quite a few years ago for the preparation of our local strategic planning statement and our housing strategy, and the community was extensively involved in the preparation of this work, and this goes back to a few years, so it's back to 2019, and in relation to local character, it was a significant part of our consultation.

The community felt it was – that local character is an important consideration in shaping the growth and the development and ensuring our – the unique qualities of our area and our scenic – particularly our scenic area, which is the area that most people suggested – had felt that it would have – most people felt was highly valued by the community, and the unique qualities of that coastal zone is important and we need to protect that. So we'll talk about that in our presentation, and we'll go through each of the questions which has been put to us, and we will then – you know, if there's any questions in the meantime, we're happy to take questions as we go along, and we will also submit to you the material that we have today, so that all the answers to our questions and also the PowerPoint presentation. So, well, if there's no other questions we will jump into it. Natasha's got a – everyone can see that?

45

DR WILLIAMS: Yes, thank you.

MR A. PILTON: Yes, thank you.

MS AGAGIOTIS: Thank you. So the first question that the – that we were asked was does council have any empirical data to demonstrate the existing impact of  
5 short-term rental accommodation in our Local Government Area. So, yes, we – in preparing – brining together the considerations for a short-term rental, we have relied on inside Airbnb data, that was provided in 2019, which indicates at the time we had something like 3300 listings of short-term rentals in our Local Government Area.

10 Interestingly, there were – there was a substantial increase in the number of listings between 2015 and 2019. So in 2015 there were about 900 listings and that moved very quickly in 2018 to that 3000 number, and also of note was that the majority of those listings, so 60 per cent, were for entire homes or apartments, and that means they were non-hosted. So that was the predominant use of short-term rentals.

15 We – and during the COVID period 2020/2021, it has been more difficult to obtain more recent data, but we can – and when the – when tourism opens up again, given the attractiveness of our coastal zone, we can expect a strong demand for short-term rentals in our Local Government Area to continue and, obviously, the platforms –  
20 Airbnb being one of them, the platforms have enabled a much easier and faster way to have short-term rental properties used for short-term rental.

So other – so information that we've gathered include a recent article by Forbes  
25 magazine, which talks about – and that was published in the American Planning Association article, which found that there is potential for short-term rentals to remove whole homes from the permanent rental market and, therefore, increase the pressure on rents, and – so that – we go into that in our submissions, so you can have a read of what information was provided for in that article and, importantly, there is –  
30 the vacancy rates have an important – are an important consideration in the short-term rental, and in our LGA vacancy rates have always been quite low for rental accommodation. They hover around the three per cent mark, which is considered that equilibrium between supply and demand.

35 So we are talking about an area which has very low rental vacancy rate and very high demand for rentals. Another piece of research which was undertaken by Sydney University was through – was a study in Hobart, which indicated that housing that – and also Shelter New South Wales was also – provided information about this. Housing affordability is an issue when it comes to letting out permanent accommodation, and the impacts on the rental housing market in the short-term and  
40 the longer term are of – you know, important factor and, also, because that study was done more recently, which is November last year, that the – this forces households to move away from areas which are in need of key workers, and I'll go into that a bit later, because our – we're talking about an area in our – in this location, which we'll show you through these – the maps you can see in front of you that households on a  
45 lower income have difficulty – key workers have difficulty in obtaining suitable accommodation in this area.

So increased, yeah, so with the 10 suburbs of Hobart, for example, that study looked at how the – the evidence shows that impact on rental housing on the local is significant in the local markets when you actually look at it on a finer scale. Not necessarily a wider, you know, city or even state-wide basis, but it's actually the  
5 local housing market that is impacted by that. Natasha, do you want to talk about these two maps we have now in front of us?

MS RIDLER: Yes. Sure. Thanks, Stella. I just want to point out here the map on the left. It shows the distribution of Airbnbs in 2018, and you can see the heavy  
10 concentration, particularly of that red colour, which is for non-hosted, so where the entire dwelling or unit is on the short-term rental platform. So that shows a heavy level of concentration, particularly in the northern area of the LGA, and then when you take that, looking at the map on the right, which is – it's the representation of areas with rental stress. So the darker the red, the higher the areas of rental stress.  
15 You can see that those areas correspond to where there are high areas of Airbnb in this instance. Airbnb listings.

MS AGAGIOTIS: Okay. And I just, sort of, emphasise again that Randwick LGA is unique in that we do have a high number of key workers that service the health and  
20 education precinct, and with the expected growth in jobs in this part of Randwick, which is the greatest increase we expect in jobs, the number of key workers will continue to increase and the need to obtain suitable, affordable accommodation in this area will also increase, and in some more recent data obtained, again from Sydney University, found that 4500 nurses across Sydney are living in overcrowded  
25 homes, and that's really as a result of not being able to find suitable and cost effective – you know, cost effective accommodation. Also the same study found that between 2011 and 2016 the number of key workers living in inner city regions fell, while outer suburbs such as – and also satellite areas, such as Wollongong and Newcastle, gained a number of key workers.  
30

So the results of that study indicate that – and the findings look – you know, are actually concluding to say that governments should look at the whole housing system as a way of boosting supply. So council's – we are doing – Randwick Council is doing a lot – quite a lot of work to look at ways of increasing our supply of  
35 affordable housing, and what we're saying in this case is that we shouldn't be undermining those efforts to accommodate and provide for affordable housing by allowing short term rentals to actually remove properties from our long-term housing market. That's, kind of, answers the first question, I think. If there aren't any other questions about that, I can then move onto does council keep a log of complaints.  
40

DR WILLIAMS: Sorry, Stella. Sorry. Peter Williams again. Could I just ask a question in relation to the maps while they're here, please?

MS AGAGIOTIS: Yes. Sure.  
45

DR WILLIAMS: The map on the right, basically, percentage of – I guess it's really rental stress, isn't it? The percentage of - - -

MS AGAGIOTIS: Rental stress, correct. Yes.

DR WILLIAMS: Yes. Is that from ABS data?

5 MS AGAGIOTIS: Yes, that is ABS. It's actually obtained from our 2016 profile – economic – sorry, social profile of the data we have, yes.

DR WILLIAMS: Right. Right.

10 MS AGAGIOTIS: That's a public - - -

DR WILLIAMS: And just doing, like, an overlay between the two maps, there's a lot of the short-term residential accommodation particularly in the north part of the LGA. To the northwest – sorry, the northeast, it seems to be an area of lower  
15 housing rental stress. It's the area to the – more to the west where you've got the dark red areas, but it also coincides also with a cluster of short-term residential accommodation. Do you know why there's a difference between the two? I'm just wondering whether the high rental stress in the area to the west is because – is it due to university students?

20

MS AGAGIOTIS: Yes.

DR WILLIAMS: Yes.

25 MS AGAGIOTIS: That could be a factor that the – it's clustered around the Kingsford – that Kingsford area south of the university.

DR WILLIAMS: Yes.

30 MS AGAGIOTIS: So on this map – Natasha, do you want to just point to where the university is. That points – yes. It's just - - -

MS RIDLER: Over here.

35 DR WILLIAMS: Yes. Yes. Just there. Yes.

MS AGAGIOTIS: At the location of the University, so there is a – yes, there is a – yes, there is a cluster and there is homes in there, there are group – a high proportion of group homes in that area, as well.

40

DR WILLIAMS: Right. Right.

MS AGAGIOTIS: And single dwellings. So the – there is a mix of apartments and single dwellings, but in the south of the university, there are a lot of semis and whole  
45 dwellings which are also available for students and shared accommodation.

DR WILLIAMS: Right. All right. All right. No, thanks, Stella. Sorry to interrupt. Thank you.

5 MS AGAGIOTIS: No, no, all good. The second question is does council keep a log of complaints that are attributable to short-term rental. Yes, we do have a register of complaints that we received. So on average we have 40 written complaints per calendar year. That doesn't include the number of phone calls that we have, as well. So these complaints – so over a five-year period there were closer to 100 complaints between 2017 and present, and most of these complaints relate to the use of  
10 residential premises for the purposes of allegedly unauthorised places of shared accommodation.

So people are ringing up and asking do these properties have approval or can they provide for a short-term accommodation, or tourist accommodation, and there's also  
15 complaints relating to the behaviour and the impacts on amenity, the most common being the disturbances to noise and antisocial behaviour. The introduction – we understand the introduction of the new register that the State Government has put together will allow us to get more accurate data on who's – you know, which premises are actually registered under that – under a short-term rental  
20 accommodation register and – but, importantly, it's to note that our focus for the LEP is not necessarily not only about the amenity impacts, which we have received a lot of comments about, but also, rather, the impacts on our rental prices and housing affordability. We see amenity impacts being able to be managed through this – the new short-term rental housing framework, but in terms of this LEP, it is about the  
25 affordability and the supply – the availability of supply. So the next – if there's no other questions on that - - -

DR WILLIAMS: No.

30 MS AGAGIOTIS: - - - we'll move onto the next question. Did council make a submission regarding the 180-day maximum when this amendment to the affordable housing SEPP was exhibited. Yes. We have made a number of submissions to the 180-day maximum proposed, including in November of 2018. We made a submission to the short-term rental accommodation framework that was proposed by  
35 the department at the time and the proposed changes to the exempt and complying code SEPP, and so then in that submission we did mention that there should be a lower limit on the exempt provisions that apply to short-term accommodation, and that they – to strike a balance between property owner's rights and also ensuring the primary use of the premises remains as residential, we felt – and we made in that – a  
40 comment in that submission that 90 days is appropriate. And we also, in that submission, referenced the impacts on short-term rental accommodation on housing supply.

The second submission was in September of 2019, and that was in response to the  
45 discussion paper to the department and that was, again, we said that the 180-day proposal limit does not address or reference impacts of short-term lettings on the supply of long-term rental accommodation, and also made a note that Randwick's

high land values, high student numbers, high number of key workers and aging population makes it difficult. It's already a tight market, and makes it difficult for us to ensure affordable housing provision. We made a few other points, including, you know, the suggestion that perhaps if the government was to agree with a short-term  
5 rental framework to think about a local levy that could be applied towards the retention and the provision of new affordable housing in areas – in council areas, and then it – again, just made the comment that we think it was a much more reasonable approach and fair to provide for a balance between short-term and long-term accommodation.

10 So the next item that the commission sent through was if we could discuss the benefits and limitations on the proposed 90-day maximum. So, although I've touched on these, the benefits of affordable housing is to reduce the stress on the rental market. We think it's reasonable and fair and appropriate – most importantly,  
15 appropriate in our unique circumstances, and that this will ensure that, you know, it reduces the impacts on low to moderate income households and provides for the maximum 90 days is more suitable, because it can potentially deter some property owners from entering the housing market and having a much more balanced approach to accommodation.

20 The 90-day approach, we feel, which is another important point, is a sound to land use planning. So when you look at it from the point of view as, well, what is permissible in the zones, the courts in the past have considered a permanency or a – you know, the use of a premises as being three months is considered a suitable time  
25 period by which a premises provides for, you know, an ancillary component of a development. So what I mean by that is that where you have residential as the primary use, and the permissibility of dwellings is for the residential – for residential accommodation. Short-term rental is not residential accommodation. It is a category of tourist and visitor accommodation, which, in fact, is not permissible in the  
30 residential zones of many Local Government Area local plans.

So allowing dwellings to have a term of 180 days for short-term rental means that you are allowing 50 per cent of the calendar year to be used for short-term accommodation, which we think is moving away from the zoning – what was  
35 intended and the objective of the zoning is to provide for long-term housing in – under the zone. So it becomes – no longer becomes ancillary. So, usually, you know, it's an ancillary component. It becomes almost a, you know, predominant or, you know, equal use as a dwelling house.

40 So in terms of limitations, the inconsistency with the state-wide approach. That's not necessarily a limitation, but it's not uncommon to have – the local plans to be inconsistent with a state-wide approach, and many State policies do reference specific local plans that are inconsistent with the State policy and provides for exemptions or alternative provisions to the State policy where it's suitable for the  
45 local area. It's also important to note that for hosted – so let's make a distinction between hosted and unhosted. So in terms of hosted short-term rental, we have never

– we haven't raised and issue with having – can we just confirm that recording has stopped?

DR WILLIAMS: Stella - - -

5

MR S. BARRY: I'll restart it.

DR WILLIAMS: Sorry, Steve. Thanks.

10 MS AGAGIOTIS: Thank you. And it's important to note that we haven't made a  
- - -

DR WILLIAMS: Thank you.

15 MS AGAGIOTIS: That for hosted accommodation the State policy allows for this  
to be exempt development for 365 days a year. We haven't raised concern about  
this. This provision is supported. It doesn't remove entire households from the  
rental market and it is – does provide a source of income for owners. We're not  
20 seeking any changes to the hosted provisions of the State policy. Also, importantly,  
that the State policy also mentions that a 20 – if a premises is rented for 21 days  
consecutively, it will remain – it will not be included in the 90-day period.

So even though accommodation is available for 180 days, it also means that there is a  
longer term period where it's not counted, and that's important in our Local  
25 Government Area where we do have a number of, you know, visiting academics,  
professionals and medical, where they may stay for a longer period if they're doing  
research and analysis. So that's important to note that there is a 21-day exclusion  
and that will still remain, and we think that's appropriate. The next question is – so,  
Natasha, was there anything else in this next section on the slides.

30

MS RIDLER: I'm sorry, a noisy truck just went by. We – no more slides on short-  
term rental, Stella. It's just the last question to address in terms of if inconsistency of  
the LEP with the housing SEPP.

35 MS AGAGIOTIS: Yes. Okay. So to clarify, yes, there would be – we would be  
seeking an exemption from the housing SEPP, as well, because that makes reference  
to 180 days for non-hosted accommodation. That is – the inconsistency would need  
to be resolved, again, via an amendment, as I mentioned previously, to the SEPP, and  
it would also – there is a particular clause, clause 1.1.12, which we would need to  
40 seek an exemption for, and it's not uncommon again for LEPs to be excluded from  
the SEPP. For example, in Mosman there is an exemption for a large part of the  
coastal area of Mosman, which is excluded from the Housing Code and the Low Rise  
Medium Density Code, so that doesn't apply, and that is a specific clause which was  
included in the – in that – in the code to exempt Mosman. If there's no other  
45 questions, we can move onto local character statements.

MR PILTON: Could I just ask a question, please, Peter?

DR WILLIAMS: Yes, please.

MR PILTON: I'm just wondering is – are there any studies or is there any evidence to show that 90 days is the – sort of, the key number of days, as opposed to say 60 or  
5 120 days, or is it just a guess?

MS AGAGIOTIS: It was based on the 90 days being three months, which we thought was a suitable time period, because the courts have determined that three months for an ancillary use is an appropriate length of time to have, and that was –  
10 it's not for short-term rental. This is going back years. So there was, you know, what is a dwelling – when is a dwelling not a dwelling. When does it move to another use, and the courts have determined that three months is a good length of time. So we can - - -

15 MR PILTON: Yes.

MS AGAGIOTIS: - - - provide further information on that. I think it may have been a case in the Central Coast.

20 MR KYRIACOU: Yes, it was, Stella. That's correct. And, I guess, the 90 days also provides the alignment with, say, the more, sort of, seasonal periods where there's greater demand for that sort of tourist accommodation, over the summer periods, and gives owners that option and probably the more high value part of their business, as well.

25 MR PILTON: Okay. Thank you.

MS AGAGIOTIS: Thank you. Moving onto local character statements. The question is other councils, e.g., City of Sydney, successfully used local locality statements and character statements as part of their DCP controls. Can council  
30 comment on this in respect to what is proposed. So, yes, the City of Sydney does include detailed locality statements as part of their DCP, and the locality statements consist of a map with locality boundary and a character statement, as well as design principles.

35 These – the details are not dissimilar to the information that we have prepared for the character statements, which – there's 11 character statements that we've prepared as part of our work into this, and our character – and the character statements include consideration of design principles relating to future character, and it's important to  
40 note that, you know, local character is an important consideration in determining and assessing applications for development, because it's more than just the standard. It's more than just height and FSR when you think of whether a proposal is suitable for an area.

45 Quite often the courts look at what does council intend as their desired future character, and we feel quite strongly that there is a need to supplement and to have an LEP statutory layer, as well as additional DCP provisions that specify very clearly

what the local character of an area, what it comprises, why it's important, and in our – in preparing our local character statements we – it was – we went through a comprehensive analysis of our local character, all of our areas. All of our 11 areas, looking at what was the social, environmental and economic importance and on top of that we superimposed the importance of the community. What the community sees as very important in our local character, and the City of Sydney. So I might hand over to Natasha, because – just to address this particular point about how the City of Sydney applies and assesses applications for local character.

5  
10 MS RIDLER: Thanks, Stella. So, I mean, yes, it's acknowledged that the City of Sydney successfully uses local character statements or locality statements, as they're called, in their DCPs in the assessment of development applications, but in looking at the way that they are applied there are some key differences between the City of Sydney LGA and Randwick. So the first one that we found, and I will just go to this image here, is that a lot of the City of Sydney Local Government Area is actually covered by heritage conservation areas or heritage items.

20 So on this map all of the pink patch is – those areas are heritage conservation areas and the blue are heritage items, and I just want to point out that this large area in the south here, that's their industrial and employment lands for the most part, so you could understand why, potentially, around there wouldn't be covered by the heritage conservation area. The large areas of conservation areas mean that there are vast portions of the LGA of the City of Sydney that aren't covered by the Housing Code and the Low Rise Housing Diversity Code, both parts of the code SEPP.

25 So that, essentially, means that instead of applications that go to the City of Sydney would be assessed as development applications, as opposed to being assessed as CDCs in other areas – other LGAs, including Randwick. So if you've got the opportunity for a council planner to assess a development application, you have the opportunity to look at those local character statements in the DCP and assess them accordingly. Applications that are assessed under CDCs are not provided with that same level of scrutiny and there are no local character provisions in those sections of the code SEPP. So there's a bit of a gap in terms of the assessment process.

35 So the reason – one of the reasons why locality statements work so successfully in the City of Sydney is there's actually an opportunity for them to be reviewed in a lot of applications. The other reason why heritage conservations are so important for the City of Sydney is that they are intrinsically linked with the locality statements. So around of – I think there's around almost 198 locality statements in the City of Sydney. 75 of them actually refer to built heritage in either the statement or the design principles. So that links the locality statements directly back to the heritage conservation areas, which are afforded statutory weight under the LEP under clause 5.10 of the LEP. So this then in turn gives those heritage matters of the locality statements more of a stronger weight in the assessment of DAs and they're not just considered as part of a DCP. They're tied back to an LEP clause in that way.

Now, when you look at Randwick you can see that a much smaller proportion of the Randwick LGA is covered by heritage conservation areas, and if you exclude these areas, for instance, Centennial Park, the racecourse, Malabar Headland and the national park in the south here, yes, we have a much smaller area of the LGA that is covered by conservation areas and, therefore, excluded from the code SEPP. So we're losing that opportunity to make the assessment under the DCP.

At the moment, just moving – taking that one step further, at the moment the only way that in Randwick we can turn off the code SEPP is in areas within the foreshore building line, and I'll just point those out here. That's these red and pink areas. So a very small portion of the Randwick LGA is exempt from the code SEPP. So that means that the code SEPP applies to the vast majority of the LGA.

We do have foreshore scenic protection areas, if you note these green sections, and those foreshore scenic protection areas, a larger portion of those align – they align with our local character boundaries, as you can see on the image on the right and, actually, 60 per cent of all of the residential area inland zoned – inland in our three proposed local character areas is actually in the council's foreshore scenic protection area. So we're really trying to align these local character areas with protecting the scenic quality of the LGA.

So I guess that just gives a bit of an example as to how the City of Sydney local character areas work, how they're integrated within the LEP, even though they sit in the DCP, and we're trying to do a similar thing with our local character areas, but rather than them being heritage – ingrained in heritage, they're more ingrained in those Sydney qualities that we'd like to protect.

MS AGAGIOTIS: Thank you, Natasha. The next – I've – the next question is there currently appears to be no statutory pathway for inclusion of local character areas in LEPs. That is no provision for it in the standard instrument. How does council envisage this proposal to be implemented. So, firstly, that – we've expressed to the department that our preference is for the original – their original plan of implementing local character through a LEP provision, so it's – so they will – the proposal is for a standardised approach to local character through the – through a model local character clause, as well as a specific map within the standardised instrument.

The standard clause would – so as exhibited, the standard clause objectives include the promotion of the desired character of an area, the requirement that development consent – that any consideration for development consent must take into account the identified local character area and the statements that are prepared by councils. So – and the local character provision would allow – would, therefore, allow council to adopt that map overlay and, as well as, the local character statements and this will be supported through the specific design principles and other principles and controls in – and the actual statements which would sit as a layer below the LEP, and we understand that the department's reason for moving away from that approach is that they received mixed feedback on the local character clause being implemented in

LEPs, and then they have resolved not to proceed with that, although there isn't a formal announcement of that as we understand.

5 A pertinent point here is that council has followed the department's published  
approach from the beginning, so we were one of the early councils to start working  
on our local character work and these – and we prepared local character statements  
for the whole of our Local Government Area, so 11 statements have been prepared,  
and they are to be placed on public exhibition. We actually did provide an  
exhibition. We did do an exhibition as part of our local strategic planning statement.  
10 The community is very supportive and – of the approach that we've taken for those  
areas, and they were prepared in line with the department's advice, which enables  
council to choose to include local character provisions in the LEP and the DCP, and  
consistent with the guideline both of – as I said, local character is referenced, is an  
important part of our local strategic planning statement and our housing strategy, and  
15 both actions, you know, were in the – in that LSPS when it was submitted to – as a  
draft when it was submitted to the Greater Sydney Commission, and in its final form  
when it was endorsed by the commission – when the LSPS was endorsed by the  
commission in March of 2020.

20 And whilst – and while we're preparing the LSPS the department asked councils to  
look for opportunities to plan and shape the future of the area, our locality, our places  
and encouraged this work to be undertaken with the community. The direction was  
very clear in that councils were encouraged to create their own vision for land use in  
the local area, to look at the special character and values of areas and consider the  
25 preservation and how change will be managed in the future to meet community needs  
and aspirations. So these matters were – these are important considerations at the  
local level. It – and it provides – not only provides for a statutory pathway for  
inclusion of local character statements in the LEP.

30 We now see the department contradicting its own advice and direction that  
government – that councils, local government should take the lead in planning for  
their existing and future communities, which is what all councils are doing. So it is  
noted that the department has advised that it is exploring new approaches to allow  
councils, developers and communities to consider their local area when designing  
35 new buildings in a more holistic way.

Not sure what that means as yet. There is some – there is reference in the design and  
place SEPP about culture and character; however, again, as mentioned earlier by  
Natasha, the design and place SEPP does not apply to exempt and complying  
40 developments, so it's not going to help even if it's in a State policy. We do need to  
have local character in our LEPs LEP layer, and we are seeking an exemption from  
the code SEPP for those – for that small area. So we looked at all of our area and we  
looked at which are the most important localities. The coastal zone was seen as the  
most appropriate location for the application of these provisions and, therefore, an  
45 exemption – you know, the department was informed through the LSPS and also  
through the housing strategy that we were going to seek an exemption from that State  
policy. If there's no other question – any questions on local character?

DR WILLIAMS: Adrian, do you have any questions?

MR PILTON: Not from me, thank you.

5 DR WILLIAMS: Stella, could I ask, you've actually answered part of the question I was going to ask, but I'll phrase it in the context, if that's okay. In council's draft Randwick Comprehensive Planning Proposal from May 2021, I think it's page 21, council says:

10 *The planning proposal amends the Randwick LEP 2012 to introduce new local character area standard instrument clause.*

And then in brackets you've got:

15 *Once finalised by the department.*

By DPIE. That's crucial, in a sense. It's fair to say the department's had a reconsideration at this stage - - -

20 MS AGAGIOTIS: Yes.

DR WILLIAMS: - - - about what to do with local character areas. What's council's response if the department does bite the bullet and say, "Look, we're not going to proceed with introducing local character areas provisions through the standard instrument", and, I guess, related to that, the department has indicated other avenues, of which one you've mentioned, and that's the – that draft design and place SEPP. Could you just comment on that, if possible, please? What happens now if the department doesn't progress with the – any of the changes to the standard instrument.

30 MR KYRIACOU: Well, if they don't – they don't necessarily require to provide a clause in the standard instrument that applies to every council. There are additional local provisions that are encompassed within many council LEPs, including Randwick's, and that is the avenue by which, you know, we would say it is not unreasonable to do on the basis that, you know, the whole planning framework has been centred around councils applying the Greater Sydney Region Plan, the Eastern District Plan and creating that, sort of, link through its local strategic planning statement to give effect to all those priorities and directions, and integral to all that is a – you know, a approach which is place-based. So I don't see any issue with having additional local provisions that emphasise the importance of character and introduce they layer, and we're quite happy to provide, you know, the wording of such a clause to the department.

DR WILLIAMS: Okay. Great. Thanks, Kerry. That's good. Thank you.

45 MS AGAGIOTIS: And, yes, so then again it's – the important here is that, you know, having the exemption that – the place SEPP – the design and place SEPP won't assist for developments that are exempt.

MR KYRIACOU: Yes, and to understand it you're looking at a coastal area such as Randwick's, and looking at the – you know, the subdivision patterns, the topography, you know, the actual spacings and vistas and views you get through buildings and through public places. Really, if the complying development code does not take any  
5 of that into consideration. So having the opportunity to require that merit assessment to be able to taken through carefully crafted and sculpted build form controls in a DCP would, really, enhance the amenity not only for the individual – the for individuals, they may just have their whole view blocked out by a development that just complies with some numerical controls, but doesn't imply a skilful design, and  
10 there'd be also that greater public benefit that people can achieve through having views of coastline through certain vistas that may eventually be lost through complying development.

DR WILLIAMS: Right. Right. Thanks, Kerry.  
15

MS AGAGIOTIS: All right. The last matter is the rezoning of the 1903R Botany Road, Matraville. The first question is does council have any short- or medium-term plans for the council-owned RE1 zoned land which adjoins this site. So there aren't any plans at the moment. The RE1 land adjacent to the site is not included in any of  
20 our short or medium-term capital works programs. It is important to note that we recently completed an open space and recreation need study. That was December of 2020. So throughout ..... 2020 we were preparing that open space study, the need study, which found that there are, you know, areas around the southern part of our LGA are, you know, well-resourced in terms of open space and, as you can see from  
25 this map, which I'll hand over to Natasha to explain in a little bit more detail, what – this map comes from our open space and rec needs study 2020.

MS RIDLER: Yes. Thanks, Stella. So you can see from this map that the subject site is ..... here. It's located in the Malabar – La Perouse – Chifley zone, and in that  
30 zone you've got approximately 32.1 square metres of council-owned and managed open space per person, based on those population projections to 2031. Now, in comparison, you can see the northern portion of the LGA. That number is significantly different, particularly in areas of high density in Kensington and Kingsford, to a lesser extent Randwick and Coogee, Clovelly where the numbers are  
35 a lot lower than what they are in the south where that site is situated. So the study, basically, identifies areas in Randwick LGA where public open space is deficient for existing and future populations, and they're concentrated in the north. So that's where council is focusing our – we're focusing on a provision of open space in those areas where it's declined – forecast to decline, in line with expected housing growth.  
40

MS AGAGIOTIS: And I might also add that supplementary to the study, council has also prepared and endorsed an open space strategy, and the focus of that strategy is really to, you know, look at the quality of the open space access and connections, ensuring that the community – you know, the provision of open space meets the  
45 needs of the community moving forward, but also identifies that council needs to prioritise actions in those areas which are less – which have less access to open space

and where there are – where there is the need and the growing – the plans – you know, housing strategy for a growing population.

5 And the sites that are zoned RE2 – sorry. I’ll just read the question, sorry. I jumped ahead. Has council had previous success where privately owned RE2 zoned land has successfully provided for the open space needs of the public. So sites that are RE2 are private open – sorry, private recreation are available to the public in limited areas throughout the LGA, and they are not necessarily – there are other zonings, not necessarily RE2. So, for example, we have tennis courts in Kingsford, which are  
10 privately run, and they provide for – they’re actually situated on RE2 low density land.

We have the Randwick Bowling Club, with a large bowling green and it’s open to the public, as well, and that’s in Randwick, and another example is the Randwick  
15 Clubhouse in Malabar, which services – which has services and publicly accessible open space, the Randwick – and the Randwick Golf Club, which includes club activities and restaurant and function centre. That’s included in our – in the material that we will submit to the commission after this.

20 Why has council not proceeded with the acquisition of this land for open space. So to reiterate, the site identified on – has been identified in our existing LEP map under clause 5.1, which identifies council as the relevant planning authority. The objective of this clause is to identified for the purposes of where an owner initiates acquisition of land that the council may consider the acquisition of that land. Council has not  
25 proceeded with the acquisition, that is as – of the site, and that’s – given it’s – it is not intended to expand the existing public recreation area.

The site is – importantly, it’s privately owned, adjacent and vacant, currently, the RE1 – the council own land We don’t have any plans for the short and medium term capital programs and, as noted in our study and strategy, council -you know, the open  
30 space is well-placed in the southern part of the LGA for future populations, and we feel that there isn’t a strong justification for the need to acquire the land for public open space purposes, given it’s council resources that are better – more suitable to be directed to areas of needs, and there appears to be little difference, in any case, in the  
35 range of permissible uses between the public and the private recreation RE1 and RE2 zones.

So in – similar development may occur in both the land and, in this case, the specific characteristics of the site don’t warrant the site zoning to be changed. Site access is a  
40 specific characteristic of this site, which I’ll hand over to Natasha to talk about. So this is an aerial photo of the site, and the red shown – outlined in red.

MS RIDLER: Yes. So the site’s in red. The adjoining council-owned RE1 space in blue. So current site access is not readily available to the site at the moment. It’s  
45 fully fenced, and that’s actually pretty much the case with the blue area, as well. The council owned land is completely fenced along the roadway, but there is some

informal access from the north here through a drainage reserve, but where it connects to the site there's a level change. It's not formalised at all.

5 This area is, essentially, not used for open space recreation. Its utility is more of a buffer, and you could say the same for the subject site. They're used as buffers and, also, an important riparian corridor for the creek that runs through. So it's – at the moment, regardless of whether it was public or private, site access is an issue for the use of the site. I will just go forward. I just wanted to touch on this image here.

10 It was – this demonstrates an approval in 2017. A Land and Environment Court approval for the subdivision of the land immediately to the west of the site, which is in the same ownership as the subject site. So approval was granted for subdivision, site remediation, landscape works and it included the construction of this road, which has just been built, and a formal right of way that would provide access to the site.  
15 So you can see that now from this new road that's been constructed there is now a formal access point to the site where one previously didn't exist.

And the other thing that this shows – it's not been approved, it's indicative, but it does illustrate that any future development on the site could not only be accessed, but  
20 would also have to provide for the – a buffer to the creek. So that buffer area to the residential to the north would be maintained, but it also shows potential uses that could be developed on the site in an RE2 zoning and, in this case, there's a swimming pool that could be open to public access. I'm not sure if you wanted to add anything, Stella, but I think - - -

25 MS AGAGIOTIS: Yes. I just wanted to reiterate that the range of uses permissible in the RE1 zone, which are – include recreation facilities, such as indoor and outdoor facilities and major facilities, child care centres and restaurants and cafes and other community facilities and, importantly, these are also permitted under the private  
30 recreation zoning, given that the site is in private ownership. The current zone does not guarantee that the land will be used or – you know, future public purposes; however, there is – the zoning does not – you know, does not guarantee its future, given its private ownership.

35 It's important also to note that the site has never been publicly accessible, and neither has the council owned land, so, you know, and the use – you know, public open space in that site is not – we don't feel it is a – public open space is not a – something that council is contemplating at this stage.

40 MR KYRIACOU: So, for the benefit of the commission, this used to be part of the paper mill site. Yes. And Amcor at the time applied for a subdivision through state significant development provisions and got consent for that subdivision and then sold it off to a private developer to do the subdivision for industrial warehouses purposes, and that part of the land was in their ownership.

45 DR WILLIAMS: Yes. Yes, thanks, Kerry, that was one of our questions about the prior ownership or use of the site. Yes.

MR KYRIACOU: Yes. It was zoned industrial under the planning scheme orders.

DR WILLIAMS: Yes. Yes.

5 MR KYRIACOU: 78 until 98, which then zoned it public open space and it has remained as such, but Amcor had this history of maintaining, sort of, buffers and areas around the site. Purcell Park was transferred to council, which was under their ownership at one time.

10 DR WILLIAMS: Right. Right. The council spent a bit of money on that, by the looks of things, having a look at that place yesterday.

MR KYRIACOU: Purcell?

15 DR WILLIAMS: The park. Yes.

MR KYRIACOU: Yes. Yes.

DR WILLIAMS: Yes.

20

MR KYRIACOU: And – yes, it comes at a considerable cost when you consider the remediation and the rest.

DR WILLIAMS: Yes.

25

MR KYRIACOU: Yes.

DR WILLIAMS: Yes. No, I – looking at it yesterday and it was quite well used, you know, in the middle of the day, I thought. Yes. It was good. Just while we've got this map here, if I could just ask one question. When I was on the site looking at the site yesterday, the area immediately to the south, actually at the intersection, it's zoned industrial, but there's signage there for a development that's proceeding on the corner of the new road and Botany Road. It's - - -

35 MS RIDLER: Is that this allotment?

DR WILLIAMS: Yes. Yes, that's it there. And they've got all the signage up. I took photos of it. I haven't got the names in front of me of the company, but it's a development for mini work pods and factory pods and various size of warehouses and things like that. So has that been approved? Is that proceeding? I mean, it's – it looks like it's going to happen, but any advice you could give on this particular site?

MS RIDLER: I'll go and have a look at it.

45 MR KYRIACOU: I'll probably just follow up on that one and come back to you.

MS RIDLER: Yes.

MR KYRIACOU: Yes.

DR WILLIAMS: Yes. It's just that, obviously, the industrial – it looks like all the industrial zoning's to the west and now the south. Well, to the west it's been  
5 developed, and – but, obviously, it looks like to the south, as well. At least, all the indications are that there's a – is that a development's about to begin there.

MS RIDLER: We can take a look at that and provide some more info.

10 MR KYRIACOU: Just bear in mind that the provisions under complying development for industrial development are quite broad and, yes, quite extensive.

DR WILLIAMS: Uh-huh.

15 MR KYRIACOU: So we'll have a look at it. It may not be a – so was it a development application notice, Peter, or was it a - - -

DR WILLIAMS: No. Well, it was – sorry.

20 MR KYRIACOU: It was just an advertising - - -

DR WILLIAMS: Advertising signage saying - - -

MR KYRIACOU: Okay.

25 DR WILLIAMS: Yes, and it gave the name of the - - -

MR KYRIACOU: Yes.

30 DR WILLIAMS: You know, the name of the development. It gave the contact companies, the type of development that was going in there and it was supposed to be finished in – well, it just says 2022, but - - -

MR KYRIACOU: Yes.

35 DR WILLIAMS: Yes, but - - -

MR KYRIACOU: Yes. If land is zoned for that purpose, then there is – yes, quite extensive works that can be carried out under complying development.

40 DR WILLIAMS: Yes. Well, the sign is – I've got it on the phone. I've just called it up. It's:

45 *Now selling new industrial units. Work pods. Mini warehouses. Warehouses.*

The company name's on the fencing around the site is Spire Corp and Trescon, and it's called a borough zone 1901. Completion – well, it says, "Completion May

2021". Well, they're going to miss that deadline, but, anyway, it's – it looks like something should be happening on that site.

MR KYRIACOU: Okay.

5

MS AGAGIOTIS: Okay. Well, that comes to the end of our presentation and response to all the questions that have been provided.

MR KYRIACOU: So, Stella – is it okay, Peter, if I just make some concluding remarks?

10

DR WILLIAMS: Please do. I was going to ask you, as well, anyway, Kerry, but, no, please do.

MR KYRIACOU: Yes. Thanks. So from council's point of view, really, we're not seeking anything that's different to what's been endorsed in our LSPS. You know, council has assiduously followed the path set out by the New South Wales Planning Framework for – in terms of applying the themes and priorities and directions in the Greater Sydney Plan and the ..... District Plan and, as I said before, we've developed a local strategic planning statement that really aligns with the regional plan in our draft LEP and, certainly, it's our view that one of the key principles of an equitable planning system that is – that it allows local communities to find local solutions that respond to the broader challenges that cities face, and it's those different approaches that really depend on local context and, certainly, it's our view that, you know, Sydney's not always well served by a top-down, one size fits all approach, and we see there's considerable merit in allowing more flexibility in the application of the State policies in the Randwick LGA.

20

25

You know, collaboration, it's a key theme of the Greater Sydney Plan, and in it, it's acknowledged that, you know, place, space, planning is an integral role to play and, also, is having a conversation with the community about change and, I think, you know – and not allowing our community to at least engage with council on these issues, you know, through the LEP process. I – it's my personal view that I think it would be very disappointing, to say the least. You know, city design really benefits from more consultation and engagement with the community, not less. So, yes, if I – if you could please take those things into consideration - - -

30

35

DR WILLIAMS: Yes.

MR KYRIACOU: - - - when you're making your recommendation.

40

DR WILLIAMS: All right. Thanks, Kerry. Stella, Natasha, is there anything else you would like to add to complete your presentation?

MS AGAGIOTIS: Nothing from me. Thank you for, you know, listening to our presentation and your consideration of the matters. I just had a question about the

45

next steps, which maybe you'll cover now, whether there's going to be a further meeting with us and the department on this matter?

5 DR WILLIAMS: We don't normally require further meetings. We might need to follow up with further questions or matters like that. So we may need to come back to you or the department for points of clarification or further questions as they arise. As with any – all our communications, such as today's meeting, any communication – any correspondence we have with you or the department will, of course, go on the website, as will your responses, you know, for transparency. So we don't envisage  
10 there will be a need for any further meetings, but we may need to get back to you for points of clarification. I'm not giving a – I didn't – we met with the department this morning. I didn't give a date, but we are trying to have our advice back to the department around mid-February. So we're on a timeframe, as well, to make a timely recommendation. Yes.

15 MS AGAGIOTIS: Thank you.

MR KYRIACOU: And I think, Peter, Councillor Said may - - -

20 DR WILLIAMS: Yes, I was just going to ask - - -

MR KYRIACOU: Sorry.

25 DR WILLIAMS: - - - councillor's if they would like to say something. Thanks, Kerry.

MR SAID: I was just going to ask if – Peter, I'm just going along the lines of what you mentioned at 1903, because I noticed those signs myself, and I've just got to ask council officers, because on those signs it does mention 1901, which is at the rear.  
30 So I just assumed they were advertising for the units that are at the back of the new lot at the back, not that actual corner. So just for clarification, if they do find out for yourself, can we just find out, as well, because I just assumed it was the ones at the back.

35 MR KYRIACOU: Yes, we'll let you know.

DR WILLIAMS: At the back. Okay.

40 MR SAID: Yes. Thank you.

DR WILLIAMS: That's a good point. Thanks, Danny.

MR ROSENFELD: Yes, I'm okay, thanks. No, we just listened in on the meeting – listening in on the meeting, but I have no questions.

45 DR WILLIAMS: Thanks, Daniel. Thank you.

MR ROSENFELD: Yes.

MR BURST: Bill Burst. I've got no questions, either, at the moment, so - - -

5 DR WILLIAMS: No. Thank you, Bill. Thank you very much. Kathy?

MS NEILSON: Kathy Neilson. Yes. I was pleased with the opportunity that you had with our staff to go through the matters that they were presenting. I think they gave a good presentation to you and I hope you take on board their reasoned  
10 arguments and presentation - - -

DR WILLIAMS: Yes.

MS NEILSON: - - - please.  
15

DR WILLIAMS: Thank you. Thank you, Kathy.

MS NEILSON: Thank you.

20 MR KYRIACOU: And, Peter, just before we end, can I just take the opportunity to, you know, thank you and the University of New South Wales for providing so many fine planning students to Randwick Council over nearly 30 years now, but I say the way it is at the moment, if you can get the universities to produce more, we'll take them, because there's definitely a shortage at the moment.

25 DR WILLIAMS: I wasn't going to raise it, Kerry, because I didn't want it to appear to be a conflict of interest.

MR KYRIACOU: No, no, all very professional.  
30

DR WILLIAMS: Yes, but, no, thank - I did want to thank you for all the support that council's given our students for the - - -

MR KYRIACOU: Yes.  
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DR WILLIAMS: Well, 30 years. It's been a long time. Thank you. Thank you very much. It's really been - the students learn a lot there. They really do.

MR KYRIACOU: Yes.  
40

DR WILLIAMS: They love it.

MR KYRIACOU: We work them, don't worry.

45 DR WILLIAMS: Sorry, excuse me. Adrian, did you have a question?

MR PILTON: I've got no further questions, thanks, Peter.

DR WILLIAMS: Thanks, Adrian. And, Steve, Helen, Phoebe?

MR BARRY: I'm good, thank you.

5 MS H. MULCAHY: No, nothing from me. Thank you.

MS P. JARVIS: No questions from me.

10 DR WILLIAMS: All right. Okay. Look, I think that's everything. We'll – as I said, we'll try and get this advice back to the department around mid-February and, as I said, we may need to get back to you, if that's all right, Kerry, for any - - -

MR KYRIACOU: Of course, yes.

15 DR WILLIAMS: - - - points of clarification, but can I say, one thing that amazed me, when this job first came through and it was a review of the comprehensive LEP and I thought, "Oh my gosh, this could be massive". One thing that struck me was, in a sense, there's – the agreement or acceptance by the council on the – you know, the vast bulk of the decision of the Gateway Determination. Just these three sticking  
20 points, in a sense, so I think it's – from my point of view, it just – there's a lot more unanimity or consensus. It's just on some of these sticking points.

MR KYRIACOU: Yes.

25 DR WILLIAMS: I'm trying to work through these.

MR KYRIACOU: Yes.

DR WILLIAMS: Yes.

30 MR KYRIACOU: It comes as a package, Peter.

DR WILLIAMS: Yes. Yes. Yes. Well, look, if there's nothing further, and I think I haven't forgotten anything. So I'll close the meeting and thank you all very much  
35 for your attendance today and all the effort you've given in preparing this for us today. Thanks once again, everyone.

MS AGAGIOTIS: Thank you.

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**RECORDING CONCLUDED**