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TRANSCRIPT OF PROCEEDINGS

TRANSCRIPT IN CONFIDENCE

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INDEPENDENT PLANNING COMMISSION

MEETING WITH DEPARTMENT OF PLANNING AND ENVIRONMENT

RE: MAGENTA SHORES INTEGRATED TOURIST FACILITY MOD 5

PANEL:

**CHRIS WILSON
CATHERINE HIRD
RUSSELL MILLER**

ASSISTING PANEL:

MATTHEW TODD-JONES

**DEPARTMENT OF
PLANNING AND
ENVIRONMENT:**

**ANTHONY WITHERDIN
JOEL HERBERT**

LOCATION:

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

DATE:

3.35 PM, MONDAY, 3 DECEMBER 2018

MR C. WILSON: I declare the meeting open. Good afternoon and welcome. Before we begin, I would like to acknowledge the traditional owners of the land on which we meet and pay my respects to their elders past and present. Welcome to the meeting today on the request to modify the development approval for the Magenta
5 Shores Integrated Residential and Tourist Development at 300 Wilford Barrett Avenue, The Entrance North. The modification seeks approval to amend stage RO7 of the development including an increase of four residential lots, amended lot and road layouts and deletion of a pocket park.

10 My name is Chris Wilson. I am the chair of this IPC panel. Joining me on the panel is Catherine Hird and Russell Miller. The other attendee at the meeting is Matthew Todd-Jones from the IPC Secretariat. In the interests of openness and transparency and to ensure the full capture of information today, today's meeting is being recorded and a full transcript will be produced and made available on the Commission's
15 website.

This meeting is one part of the Commission's decision-making process. It is taking place at the preliminary stage of this process and will form one of several sources of information upon which the Commission will base its decision. It is important for
20 the commissioners to ask questions of attendees and to clarify issues whenever we consider it appropriate. If you are asked a question and are not in a position to answer, please feel free to take the question on notice and provide any additional information in writing, which we will then put on our website. We will now begin. Welcome.

25 MR A. WITHERDIN: Thanks for having us.

MR WILSON: So if you, just to start off with, I think we just need – we would like a little bit of an outline or summary of the process to date.

30 MR WITHERDIN: Yes.

MR WILSON: And I think, if you can go back to the 2016 MOD, I guess, as a starting point. The applicant kindly gave us a bit more of a summary of the
35 application overall.

MR WITHERDIN: Yes.

40 MR WILSON: But RO8 seems to be instrumental in terms of what we would accept or haven't accepted for RO7 and I guess we would like to have some understanding of what that was approved. Sorry, in terms of, yes, how – in terms of what that approved and what the applicant is seeking to approve this time around. So a bit of a summary of the process to date would be good.

45 MR WITHERDIN: Okay. So I can start with a bit of an intro of what this proposal is about. So you've probably heard from the proponent but I will outline it quickly

again. So essentially it's a tourist and residential development as approved by the then-Minister for Planning in 2004. It includes a resort, a golf course, and permanent residential development. It consists of 13 stages of which seven have been built and constructed and the majority have been occupied now. And the approval has been
5 modified four times. So, Chris, just to pick up on your last question about MOD 4, that proposal sought to increase the density on that development by 15 lots.

MR WILSON: Yes.

10 MR WITHERDIN: And it also sought to realign the main road that runs through the middle of that stage and delete pocket parks.

MR WILSON: Yes.

15 MR WITHERDIN: In that particular proposal, we considered the density to be acceptable as consistent with the concept plan, and we also considered the deletion of the pocket parks from that particular stage to be acceptable as well. Now, I know this proposal seeks to delete further pocket parks from the development. When we
20 assess the earlier stage on its merits, we thought it would be acceptable to delete those pocket parks knowing that that road included additional pocket parks to be built. So I know one of the key objections coming from the community was the loss of pocket parks and when we went on site, we agreed that basically those pocket parks formed an important part of the overall character and amenity of the area. So while we were satisfied that the deletion of the two pocket parks in the earlier stages
25 is acceptable, we wouldn't want to see any further pocket parks deleted from that road, otherwise it would detract from the overall amenity of that area and it would lead to a real gun barrel straight road. So that's why we've basically recommended that an additional pocket park be included at the southern edge of RO7, basically where it meets the RO8.

30 MS C. HIRD: 8, yes.

MR WITHERDIN: And so with that additional park there, as recommended, and the one that the proponent put forward at the northern side of that stage, we think that
35 would be a reasonable outcome. Does that answer your question on that?

MR WILSON: Well, it sort of – that's what we were heading towards; the inconsistency between why you accepted it previously in MOD 4 and why it's unacceptable now.

40 MR WITHERDIN: Yes. So essentially, if – we looked at it from – holistically, four is probably not required, but we think that two was essential just to make sure that that road is consistent with all the rest of the development basically.

45 MS HIRD: The location, you said, at the southern end, when we spoke to the applicant, he indicated that their preferred position was where the traffic calming device is, which is a bit too – yes.

MR WITHERDIN: Yes.

MS HIRD: So is that acceptable or was part of your rationale to be able to provide the pocket park experience to the R8 development?

5

MR WITHERDIN: Look, I think where they've got that traffic calming device is probably in the same location it was previously provided. My preference would be that it would be located further to the south.

10 MS HIRD: For what reason?

MR WITHERDIN: Just so that it provides a bit better balance to that overall road, but, look, at that location, I think it would be acceptable.

15 MR WILSON: Though you would have to consider – we're not trying to ask you for an answer. I guess we're just saying that's where they suggested they might put it.

MR WITHERDIN: Yes.

20

MR WILSON: But obviously, as the conditions, draft recommended condition, as it's proposed now, they would have to consult with you in terms of acceptability.

MR WITHERDIN: That's right, that's what the condition requires, yes.

25

MR WILSON: Okay. But there's no – there's no criteria governing where these things go or it's - - -

MR WITHERDIN: No.

30

MR WILSON: Okay.

MS HIRD: Well, the residents did raise this issue of being able to meet together as communities and probably, you know, have little Christmas parties and things like that, so I think that was where I was coming from, was their - - -

35

MR WITHERDIN: Right.

MS HIRD: - - - you know they would perform that function as well, reportedly, from the other parks. Yes.

40

MR WITHERDIN: Yes, yes.

MR MILLER: So if I might, so condition 7A, has the words:

45

...at the southern end of Pebble Beach Avenue.

And then it goes on to talk about the revised drawings being approved by the Secretary.

MR WITHERDIN: Yes.

5

MR MILLER: Would you have any issue if it were at an appropriate location to the south of what seems to be now called White Haven Avenue?

MR WITHERDIN: No, that would be acceptable, yes.

10

MR MILLER: So we're not locking it in to the southern end, we're locking it in to the – towards the south.

MR WITHERDIN: Yes, towards the south.

15

MR MILLER: Okay.

MR WITHERDIN: Even – so where it's – how it's worded at the moment, I was envisaging it being closer to the boundary of the stage, but if it was to be moved slightly to the north, it's still within that general vicinity.

20

MR MILLER: Do you have a sense of how large these parks are?

MR WITHERDIN: Yes. They're about – they vary, but they're about 15 to 20 metres long.

25

MR MILLER: Right.

MR WITHERDIN: About 10 metres wide.

30

MR MILLER: So it's going to be in the middle of the road.

MR WILSON: There's a photo of one, I think - - -

35

MR MILLER: Yes, I - - -

MR WILSON: - - - in the back of the – yes, one of the residents' submissions.

MR MILLER: Right.

40

MR WILSON: I'm presuming they're pocket parks.

MR MILLER: Yes.

45

MR WILSON: Quite substantial and quite substantial vegetation as well. So that's fine. So that's discussed. That's the – I guess that has addressed the inconsistency

we're all thinking about in relation to RO8 and RO7, so would you mind – we will let you keep going, I guess.

5 MR WITHERDIN: Yes. So the other key issue that we considered in our assessment, of course, was the increase in density. Now, the original proposal sought to increase the density by 14 lots. Following the submissions, the proponent amended the proposal and reduced the number of additional lots from 14 to four, so they reduced the additional lots by 10 overall, and the department considers that to be acceptable.

10 MR WILSON: So this is where I get confused. So my understanding was it was going from 38 to 58; that's not correct?

15 MR WITHERDIN: So the total - - -

MR WILSON: A lot of the submissions refer to 38 to 58, but maybe – so the application was from – I just want to confirm the numbers, because - - -

20 MR WITHERDIN: That's all right.

MR MILLER: It says it was 44 to 58, according to the assessment.

MR WILSON: Right.

25 MR WITHERDIN: So originally the proposal sought to increase the number of lots from 44 to 58.

MS HIRD: Yes.

30 MR WILSON: Okay.

MR WITHERDIN: They revised the proposal.

35 MR WILSON: Yes.

MR WITHERDIN: And they have reduced the overall number of lots to 48 within that stage.

40 MR WILSON: Yes, okay. So which is an increase of four.

MR WITHERDIN: So they reduced - - -

MR WILSON: Okay.

45 MR WITHERDIN: Increase in four.

MR WILSON: Sure - - -

MR MILLER: Now – sorry. No, you go ahead, chair.

MR WILSON: Just can you talk a bit to the density of the inner sand dune in terms of the concern in relation to the increased yield and what it meant for – in terms of
5 the density in the townhouse development sides of things.

MR WITHERDIN: Yes, yes. So that was one of the key concerns raised by residents, was the small lots facing the beach. So the proponent amended the proposal and they have – they've reduced the overall amount of lots facing the beach
10 from 35 to 25.

MS HIRD: Yes.

MR WILSON: Okay.
15

MS HIRD: All the – all - - -

MR WITHERDIN: That's an approximate number.

20 MS HIRD: All the deletions - - -

MR WILSON: Happened on the - - -

MS HIRD: - - - happened on the beach side.
25

MR WILSON: - - - on the eastern side, or the beach side.

MS HIRD: Yes.

30 MR WITHERDIN: That's right.

MS HIRD: Yes.

MR WITHERDIN: Yes. So the department is now satisfied that all the lots are now
35 large fronting the beach and all of those lots are capable of accommodating a single dwelling with sufficient setbacks.

MR WILSON: Detached housing basically.

40 MS HIRD: Yes.

MR WITHERDIN: Yes.

MR WILSON: Okay.
45

MR WITHERDIN: And, of course, the masterplan envisaged a mixture of detached and attached dwellings across the site. So in the earlier stage, it will accommodate

some attached dwellings on the beachfront in that stage 8 and, in this stage, will accommodate mostly, or predominantly detached dwellings.

5 MR WILSON: Okay. But there's no change to the configuration as it was proposed on the western side of the road?

MR WITHERDIN: No, it's similar.

10 MR WILSON: Okay.

MS HIRD: Do you know why they reduced 46 permanent dwellings back in 2005?

MR WITHERDIN: No, I don't. I could look into that for you, but I would imagine that was just due to market demand.

15 MR WILSON: Change of mix.

MR WITHERDIN: Yes, change of mix. There might be increased demand for detached dwellings over attached dwellings, but it's really a good question for the proponent, but we could have a look into that previous report.

MS HIRD: Okay. Yes.

25 MR WILSON: Russell?

MS HIRD: The only other issue is that curvature of this road. So what we don't have is a plan of what the original concept looked like.

MR WITHERDIN: Right. The original concept is shown in figure 2 of the report.

30 MS HIRD: Yes.

MR WITHERDIN: Now, it is a masterplan - - -

35 MS HIRD: Yes.

MR WITHERDIN: - - - so the original plans approved back then were in that form, and they didn't go to the level of detail that the proponent has provided today.

40 MS HIRD: No.

MR WITHERDIN: But it's important to note that these are masterplan level details only.

45 MS HIRD: Yes, yes, yes.

MR WITHERDIN: And so we've included another condition in the recommendation just specifying that that's the case. They're concept plans only and that further detailed plans are required at the next stage - - -

5 MS HIRD: Yes.

MR WITHERDIN: - - - when they submit a DA to council.

10 MS HIRD: So it's a bit hard to guess, it looks like that original pocket park to the north was considerably larger, or maybe not.

MR WILSON: You said there was 13 stages, seven have been basically developed. I think the applicant said in a previous meeting that there was only three or four stages left to be developed.

15 MR WITHERDIN: That's not my understanding. My understanding is that seven have been developed - - -

MR WILSON: Okay.

20 MR WITHERDIN: - - - of the 13. So we could double-check that for you, Chris.

MR WILSON: Yes, you might just want to confirm that. I mean, I guess, whether it's material or not we will need to consider, but what we did raise with the applicant is the piecemeal approach to developing the masterplan approval and maybe – maybe the best interests of the community is they do revisit the masterplan at some stage with input from the – given the time that has elapsed. I mean, it has now been 13 years, was it?

30 MR WITHERDIN: Yes, 2004 was the approval.

MS HIRD: Yes.

35 MR WILSON: Yes. So it's 14 years since the original concept and maybe it's time that they went out so everyone has some certainty in the process, but we've left that with the applicant. Well, my understanding was you were discussing with the applicant, or the applicant was discussing with you about maybe having a condition that suggests – I'm not quite sure that's valid, but, I mean, certainly the intent would be that they revisit that masterplan at some stage - - -

40 MR WITHERDIN: Yes, so - - -

MR WILSON: - - - if there's that many stages left.

45 MR WITHERDIN: Yes. The community raised a similar concern about what the status of the remaining stages of the concept were and I understand those concerns that it would be good to understand how those future stages are going to roll out. At

this stage, we've been assessing each application as they've been put forward to us though.

5 MR WILSON: Okay. But I'm not quite sure if it's valid to recommend a condition that suggests that they revisit the – I'm not quite sure that's appropriate; probably not. It can only be a recommendation.

MR WITHERDIN: Yes. I can only deal with the merits of the applications - - -

10 MR WILSON: Yes.

MR WITHERDIN: - - - that are submitted to us.

15 MR WILSON: Even though you're asked to amend a masterplan?

MR WITHERDIN: Yes, for that particular stage only. For the future stages they have an approval already and it's up to the proponent to decide whether or not they're going to modify those future stages.

20 MS HIRD: So the current approval is exactly how they look on the masterplans?

MR WITHERDIN: Yes.

25 MS HIRD: Right. Okay.

MR WILSON: So in that respect, it might be just useful for us to understand how much is actually left to be developed – how much has been developed and how much is left to be developed, and the exact ratios. I'm not quite sure I've got it all from this – I could be wrong. I just don't think we've got a really solid understanding of what's transpired and what's going to transpire under the masterplan consent.

30

MR WITHERDIN: Okay.

35 MR WILSON: Is there – if there's a simple way of just advising us how, you know, how many lots have been taken up, what types of lots they were in terms of – yes, what's got development approval.

40 MR WITHERDIN: Yes. So I would have to seek an update from the proponent on the status of the overall development of the concept, because the department is only dealing with the concept.

MR WILSON: Yes.

45 MR WITHERDIN: Future DAs go to council. Council approve those DAs and then they can construct. So I would have to get an update from the proponent, who would know exactly where - - -

MR WILSON: Okay.

MR WITHERDIN: - - - the development is up to - - -

5 MR WILSON: Okay. I mean, that - - -

MR WITHERDIN: - - - for those future stages that rely on council's approval.

10 MR WILSON: - - - would be – it would be good – it would just be a good to understand that. From our perspective, it would be good to understand exactly what's happening. The other question is DAs, do they need to be consistent with the masterplan?

15 MR WITHERDIN: Yes.

MR WILSON: I just note that the last application was modified after the fact.

20 MR WITHERDIN: That was news to me. Yes. So we considered that application based on its merits, yes.

MR WILSON: Okay.

25 MR WITHERDIN: Any compliance issues, I will get our compliance team to have a look.

MR WILSON: Yes, that's all right.

30 MR MILLER: I think it's a condition of the DA. The DA was conditional on getting the MOD approved.

MR WITHERDIN: Yes, I would have to jog my memory on that.

MR WILSON: Yes, deferred commencement.

35 MS HIRD: Yes.

MR MILLER: Yes.

40 MR WITHERDIN: Okay.

MR WILSON: Have you got any other questions?

45 MR MILLER: I did have some written down. Catherine? What about the construction road? There was an issue raised about the construction traffic using an access near the golf course's construction shed, or not construction shed. There was a concern that construction traffic was always going to use certain roads, but it was construction traffic was using the main road instead of actually coming by an

alternative manner. So you're satisfied that the construction traffic is minimal enough to not be a concern on those roads?

5 MR WITHERDIN: Yes. So increasing the density by four lots - - -

MR WILSON: Yes.

10 MR WITHERDIN: - - - there will be a minor increase in construction activity on the site. This approval is a masterplan approval, so it doesn't go into the detail of how those construction impacts will be managed and those construction packs need to be assessed and determined by council on the next stage basically.

15 MR WILSON: Okay. So - and I guess these stages have been done over a reasonable period of time to ensure that, cumulatively, they're not being constructed at the same time, so traffic will be kept to a minimum, yes?

MR WITHERDIN: Is there any other questions on - - -

20 MR WILSON: No, that's - - -

MR WITHERDIN: - - - the proposal?

25 MR WILSON: That's - I mean, there's the pocket parks, there was the - so my understanding is the condition requires the applicant to come back with a new - well, with a revised subdivision pattern showing two pocket parks; a curved road, not a straight road. Will that affect some of the subdivision? It will. The pattern - - -

MR WITHERDIN: Potentially, yes.

30 MR WILSON: Lots.

MS HIRD: Yes.

35 MR WITHERDIN: So once you've included the park, that will require a change to the alignment of the road - - -

MR WILSON: Right.

40 MR WITHERDIN: - - - and that will change some - the size of some of those lots.

MR MILLER: 7, 8 and 9 are going to get smaller, aren't they?

MR WITHERDIN: Potentially, yes, yes.

45 MR WILSON: Now, there was the issue about the access to the golf course.

MR WITHERDIN: Yes. So the access to the golf course has been provided, so, well, the department is satisfied that that's - - -

MR WILSON: So that's - - -

5

MS HIRD: Yes, that's the problem. Yes.

MR WILSON: So that's back in the plans, yes?

10

MS HIRD: Yes.

MR WILSON: I see.

MR WITHERDIN: Yes.

15

MR WILSON: They've come back with that.

MR WITHERDIN: And it also includes access to the beach.

20

MS HIRD: Yes.

MR WITHERDIN: And we're satisfied with that as well.

25

MR WILSON: Okay. There was an issue about these walkways being wildlife corridors. Can you explain what that was – that concern was related to?

MR WITHERDIN: So some residents raised a concern about the impact of losing the golf course links and wildlife corridors.

30

MR WILSON: Are there corridors? Where are the corridors?

MR WITHERDIN: There's no specific corridors, but the access would provide for some connectivity for wildlife.

35

MR WILSON: Yes, okay. Yes, okay.

MR WITHERDIN: And so being maintained, it will provide some connectivity for wildlife onto the golf course.

40

MR WILSON: Well, the same as would a – yes. Okay.

MS HIRD: As these pocket parks are going to require changes to lot sizes, have you – is there any comments about whether those lot sizes should be a particular size or – what am I trying to say – which – what impacts should be addressed in doing this?

45

MR WITHERDIN: Look, the original approval includes those pocket parks.

MS HIRD: Yes.

MR WITHERDIN: And having a look at the size of all those lots, even if they were reduced, I think they could still accommodate a reasonable dwelling on those lots.

5 MS HIRD: So what's reasonable then?

MR WITHERDIN: So the lots vary in size - - -

10 MS HIRD: Yes.

MR WITHERDIN: - - - across the development.

MR MILLER: Well, these are 41 and 42 metres deep and 10.5 metres frontage.

15 MR WITHERDIN: And so the lots are ranging approximately between 350 square metres in size to about 550 square metres.

MR MILLER: 432 to 446, 447 in the area we're talking about.

20 MS HIRD: So if they came back with something - - -

MR MILLER: You would be better off with this plan I think.

25 MR WITHERDIN: In that specific area.

MS HIRD: If they came back with something that was 280 square metres or something like that, that would be unacceptable?

30 MR WITHERDIN: Depending on the - - -

MR WILSON: Minimum lot size.

MR WITHERDIN: There is no minimum lot size - - -

35 MR WILSON: No?

MR WITHERDIN: - - - for these areas; it has all been governed by the masterplan, but you can see those lots to the north.

40 MR MILLER: The assumption is that the – that it will be the traffic calmer is, so they have three lots there likely to be affected if it's only to the west – and I'm assuming it would go more to the west than the east.

45 MR WITHERDIN: Yes. So those lots - - -

MR MILLER: It may have a flow-on effect to the rest of the blocks to the south and some of the rest of the blocks to the south and the north.

MR WITHERDIN: Yes. So - - -

5

MS HIRD: So - - -

MR WITHERDIN: - - - particularly those lots to the north, they're all quite large lots.

10

MR WILSON: Yes.

MS HIRD: Yes.

15 MR WITHERDIN: They're all over 400 square metres. Even if they were to be of the size that are provided on the south, that would be consistent with the lot size across the remaining parts of the concept plan area and I think that would be acceptable.

20 MR WILSON: They've accepted it, so they must be satisfied that they can fit it in, yes?

MR WITHERDIN: Yes.

25 MS HIRD: But I can see why they wouldn't put it down at the southern end, because those lots are quite small.

MR WILSON: But what you could do is just push some of the lot sizes - - -

30 MS HIRD: Or you could change the boundaries.

MR WILSON: Yes, change the boundaries.

MS HIRD: But I'm just saying - - -

35

MR WITHERDIN: Yes, it depends on how you reconfigure it. Some of those lots could be changed to be wider rather than narrower.

40 MR WILSON: So the pocket park – so it's a community title, so the pocket parks are managed by the applicant, yes, or the manager - - -

MR WITHERDIN: Yes.

MR WILSON: I don't think I have any more. Do you?

45

MS HIRD: No.

MR WILSON: I think that's it. If you could get back to us on, what was it, Matt?

MR M. TODD-JONES: I'm pretty sure it was how much has been developed.

5 MR WILSON: Yes, please.

MR WITHERDIN: Yes.

10 MS HIRD: And the rationale behind reducing the number of permanent dwellings
in 2005 MOD - - -

MR WITHERDIN: Yes.

15 MS HIRD: - - - 110-10-2004.

MR WITHERDIN: No problem. I will need to speak to the proponent on a couple
of those, and I will read the previous report and we can get some answers to you on
that.

20 MS HIRD: Good. Thanks very much.

MR WILSON: That's all. Thank you very much for coming.

25 MR WITHERDIN: All right.

MR WILSON: Thanks for coming a bit earlier too. I appreciate it.

MS HIRD: Yes.

30 MR WITHERDIN: No worries. That's all right.

MR WILSON: Finished. Thanks.

35 **RECORDING CONCLUDED** **[4.01 pm]**