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TRANSCRIPT OF PROCEEDINGS

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O/N H-962622

INDEPENDENT PLANNING COMMISSION

PUBLIC MEETING

RE: MAGENTA SHORES INTEGRATED TOURIST FACILITY MOD 5

PANEL:

**CHRIS WILSON
CATHERINE HIRD
RUSSELL MILLER**

ASSISTING PANEL:

MATTHEW TODD-JONES

LOCATION:

**THE ENTRANCE LEAGUES CLUB
3 BAY VILLAGE ROAD
BATEAU BAY, NEW SOUTH WALES**

DATE:

10.30 AM, WEDNESDAY, 12 DECEMBER 2018

MR C. WILSON: Good morning everybody. Before we - - -

MR R. MILLER: You can put that aside.

5 MR WILSON: Can everyone hear me?

MR: Yes.

MS: Yes.

10

MR WILSON: Do I need this?

MR MILLER: No.

15 MR WILSON: No. Thank you. Before we begin, I would like to acknowledge the
traditional owners of the land on which we meet today. I would also like to pay my
respects to their elders past and present and to the elders from other communities
who may be here today. Welcome to this public meeting on the request to modify
the development approval for the Magenta Shores Integrated Residential and Tourist
20 Development at 300 Wilfred 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.

25 My name is Chris Wilson. I am the chair of this Independent Planning Commission
panel, which has been appointed to determine this modification application. Joining
me today on the panel are Commissioners Catherine Hird on my left and Russell
Miller on my right. Matthew Todd-Jones from the Commission Secretariat is
assisting us today. Before I continue, I should also state that all appointed
commissioners must make an annual declaration of interests identifying potential
30 conflicts with their appointed role. For the record, we are unaware of any conflicts in
relation to our determination of this application. You can find additional information
on the way we manage potential conflicts in our policy paper which is on the
Commission's website.

35 In the interest of openness and transparency, today's meeting is being recorded, and a
full transcript will be produced and made available on the Commission's website.
The public meeting gives us the opportunity to hear your views on the assessment
report prepared by the Department of Planning and Environment before we
determine the application. The meeting is one part of our decision-making process.
40 We have also met the Department of Planning, the Central Coast Council and the
applicant, and we will visit the site today. The Commission may also convene with
relevant stakeholders if clarification or additional information is required on matters
raised. Records of all meetings will be included in our determination report which
will be published on the Commission's website.

45

Following today's meeting, we will endeavour to determine the modification application as soon as possible; however, there may be delays if we find there's a need for additional information. Before we hear from our first registered speaker, I would like to lay some ground rules that we expect everyone taking part in today's meeting to follow. First, today's meeting is not a debate. Our panel will not take questions from the floor, and no interjections are allowed. Our aim is to provide maximum opportunity for people to speak and to be heard by the panel. Public speaking is difficult for many people including us. Though you may not agree with everything you hear today, each speaker has a right to be treated with respect and heard in silence.

Today's focus is about public consultation. Our panel is here to listen, not to comment. We may ask questions for clarification, but this is usually unnecessary. It will be most beneficial if your presentation is focused on issues of concern to you. It's also important that everyone registered to speak receives a fair share of time. We will enforce timekeeping rules. As chair, I reserve the right to allow additional time for provision for further technical materials. A warning bell will sound one minute before the speaker's allotted time is up and again when it runs out. Please respect these time limits. Can you hear?

MS: Sorry. Can't hear you very well.

MR WILSON: Okay.

MR MILLER: You want this back. Cover your ears, everyone.

MR WILSON: Just – yes, just bear with me, people. Okay. Is that okay? It's very loud. If there are issues you are unable to address or you feel you could not complete the address, written submissions – complete the address in the allocated time, we would encourage you to provide a written – an additional written submission to the Commission. Written submissions should be made to the Commission within seven days of today's meeting. Though we will strive to stick to our schedule, speakers sometimes don't show or decide not to speak. If you know someone will not be attending, please advise Matthew. If you would like to project something onto the screen, please give it to Matthew before your presentation. If you have a copy of your presentation, it would be appreciated if you would provide us with a copy after you speak.

Please note any information given to us may be made public. The Commission's privacy statement governs our approach to your information. If you would like a copy of our privacy statement, you can obtain one from Secretariat or from our website. Audio recording of this meeting is not allowed except for the official recording for transcription purposes only. Notes made throughout the day on issues raised will be summarised in our determination report. Finally, I would like – I ask everyone to turn off their mobile phones. Thank you. I will now call on the first speaker, being Mr Matt Brown.

MR M. BROWN: Good morning. Thank you for the opportunity to present today on the modification application for the Magenta Shores Integrated Residential and Tourist Development. My name is Matt Brown. I'm the director of Perception Planning. I'm a qualified town planner and registered planner with the Planning Institute of Australia. Perception Planning only become involved in this development post the issue or the further information request from the Department of Planning of Environment. Since inception, we've been impressed by the proponent's willingness to make genuine changes to the plans to address the concerns raised by various stakeholders.

Since inception, I reviewed the history of the project, the information requested from DPE and in consultation with the client went about addressing the concerns or the issues raised. On reviewing the assessment report from IPC, we were very pleased to see how it outlines how the key issues have been addressed. As you would be familiar with, the planning process is very fluid and addressing the concerns raised as part of this process personally we see is paramount in ensuring considered and robust planning decisions. Throughout the process, we sought to justify and explain the reasons for the changes to the design.

The key issues we responded to are as follows. Firstly, with density. We acknowledge the plan advocates for density in order to be consistent with the Central Coast Regional Plan 2016. Density in this location, in our view, is very appropriate because of its accessibility, the lack of a biodiversity corridor in the preservation of such and other areas, employment lands, diversity and existing infrastructure. In our view, it's very important that density and increased density is put in the right locations. Our response identified this is a key objective of town planning.

Whilst it's acknowledged this is not ideal for the master planning approach and the minor departures from such, there's the intention to not carry out further amendments from this point on until revised master planning is carried out through an integrated and holistic manner for new applications covering the entirety of the development lots from this point onwards. The Central Coast Regional Plan identifies that by 2036, the region is expected to have 36,350 more households requiring 41,500 new homes. Furthermore, it states the demographic trend towards smaller house – houses – households and the aging population will fuel this need.

The second key issue was visual impact. We certainly acknowledged the visual concerns and went about addressing them. The concern was raised in regards to the small lots adjacent to the beach or the conservation zone and the overall visual impact a continuous row would have in this context. In response to this, the subdivision plan was amended and the beach conservation zone to have larger lots and no townhouses. This will now create an environment that's more conducive or have less visual impact in this important environmentally sensitive area.

Thirdly, pocket parks, the further information request outlined the department noted the existing pocket parks within the development are very well maintained, vary the streetscape and have positive impacts.

50

To prevent the creation of uncharacteristically straight roads, the development was proposed to ensure the overall character be proved by introducing curves and traffic counting devices within the development. This has been reflected in the proposed conditions, but also the plans have been amended to reflect this. We acknowledge
5 it's an important amenity outcome to maintain both pocket parks and connectivity with the golf course.

Fourthly, the department acknowledged and requested the golf course links be maintained. The revised plans were amended to include this connection, the result
10 being a good planning and amenity outcome. We are really pleased to be working on what we consider is such a quality development for the area and one that we provide, in our – we believe, in our view, responds really well to the site constraints, the legislative controls and, in particular, the state government need to provide housing for a growing population. We respectfully ask the IPC to support this application
15 and concur with the experts, the government departments, the council and the Department of Planning. Thank you for your time.

MR WILSON: Okay. I would like to now call Paul Seisums. Is that how I
20 pronounce it?

MR P. SEISUMS: Yes, that's right. Yes, thank you. Testing one. Okay. Thank you. Thank you for the opportunity to address this forum today. I appear on behalf of the developer. We would also like to acknowledge the traditional landowners, the Darkinjung, and pay our respects to elders in that regard. I just wanted to note that
25 the proponent in the proposed modification is noted as Rich Sea International. Some circa about four weeks ago, I contacted the department because there had been a structural change or a change of developer, and the – so the proponent being Rich Sea International isn't actually accurate. It's three tenants in common, and those three tenants in common are Zhao Family Trust, Option Funds and Tung Chit Real
30 Estate. So I just wanted to clear that up from the get-go.

Throughout this facilitation process, we really believe we've addressed all concerns and we've really demonstrated a willingness to listen. I think a major change or a major demonstration of that has been the of the townhouses which were the small
35 lots on the beachside. I personally think, you know, that the essence of the theme is detached housing and attached housing, and I think had we simply just moved from the beachside to the golf side, that we definitely could have got an approval. As developers and for me personally, I found that difficult to do and had to make a pretty large commercial decision in that we already had townhouses coming down
40 the 18th hole.

And if we were to move them over there, I think that the bulk and scale and the built form would have really had an overcrowding feel to just even playing golf, let alone driving down the road. So we made a massive commercial decision there to make
45 that change. I believe we could have got approval, but I just didn't think that in my experience in a development of real property that that was – you know, that that should be done, and I don't think it's best practice development at all. So we omitted that.

Furthermore, we – you know, I guess we’ve responded to market demands with regards to lot sizes. You’ve got a very heavy over 55 empty nester marketplace at Magenta Shores, and there’s loads of green space, being, you know, the golf and the beach and tennis courts and gyms and the like. So that was why we decreased lot sizes. Also, that’s on trend with all developers, and our competitors, indeed, are similar lot sizes. So that sort of addresses the lot size situation.

Furthermore, I think we’ve introduced, you know, the pocket parks as asked, and we’ve also publicly committed to, you know, any more amendments to try and not do it in such an ad hoc fashion; rather, you know, we deal with all the community development lots in one go. So it’s a bigger picture and, you know, better for everybody, I think. I – there was – on reading the transcript of proceedings between the IPC and the DPE, there was a question outstanding with regards to, I think, how many stages were left at Magenta Shores. Would you mind if I gave you – or are you aware – has that been cleared up or – I’ve got just something here that might just make things a little bit easier.

MR WILSON: We’ve asked the questions from the department. We haven’t received their responses yet.

MR SEISUMS: Okay. So did you need me to respond to that as - - -

MR WILSON: I’m happy for you to talk to the stages if you want quickly - - -

MR SEISUMS: Yes.

MR WILSON: - - - if you’ve got time.

MR SEISUMS: Yes. No problem. All right. Just quickly – that just outlines the existing brownfield, and I think in my comments in our discussions was that there was three or four development – three or four stages left, and you will see those black lines. Anything to the left of those black lines, that’s existing brownfield. So that’s already been built. So we’re looking at three stages, and if you include RO7A, it’s four stages. So I just wanted to clear that up. That’s all.

MR WILSON: Thank you.

MR SEISUMS: Okay. I mean, we’re private developers with a philosophy of people first, planet second and profit third, and I think we’ve actually demonstrated the three Ps in not, you know, going ahead or pushing the townhouses. I think we’ve demonstrated that we actually have a conscience in that regard. Furthermore, you know, we are locally minded developers. Thank you. And when I was contracted to this site, I terminated all Sydney relationships, and I built up a team of architects, lead surveyors, you know, every discipline engineers all local on the Central Coast.

Further to that, at the moment, in our current stage, we’ve – you know, we’ve got circa 80 locals working – tradesmen on site constructing that site, and that will

increase probably up to around 200. So there certainly is a massive benefit for the local community and local business commercially as well. I would think given all that, you know, that the Central Coast Council, Department of Planning and all government agencies are in support of this modification. I would certainly
5 respectfully ask that the IPC do the same. Thank you for your time.

MR WILSON: Thank you. Okay. I would like to call Ann Cameron.

MS A. CAMERON: One microphone. Thank you as well for the opportunity to
10 address the Commission on behalf of the Magenta Shores Community Association. I've been a member of the executive committee since its inception in – about 10 years ago, and I'm currently the secretary for my sins. I'm a town planner, and I'm very familiar with the planning process and its challenges, particularly when throwing the Community Titles Legislation into the mix with the EP&A Act. In the
15 beginning, with the original 2004 master plan in place, it was intended that the whole site be designed and constructed by Mirvac and be completed well before now. Sorry.

This has not happened, and we have lurched from development certainty under
20 Mirvac to a very rocky and uncertain development future as the developer seeks to – has sought to increase densities and height across the site with little regard to the approved master plan. This was evident in the previously approved modification 4 which is currently under construction, and you will see some of that today. This – our – modification 5 sought initially to replicate that modification 4, and it included a
25 40 per cent increase in the number of dwellings, a reduction in greenspace and linkages to the golf course and a straightening of the roads.

Following a site visit from departmental officers, which I don't think happened under the previous modification, the department has recommended significant changes to
30 the current application which include a reduction in the number of lots, as you know, the addition of one pocket park and the reinstatement of the links to the golf course. The Community Association generally supports these amendments, although we would have liked another pocket park; however, the continuance of this ad hoc approach to the development without a new master plan not only provides
35 uncertainty but places substantial risk to the overall theme and the quality of the development, and I hope you can see that for yourself when you go there today.

Our main concerns which remain unresolved are, firstly, the potential for future ad hoc modifications to the master plan rather than a requirement for a new master plan
40 be prepared if any more increases in the density or major changes are proposed and, secondly, the potential for the developer to sell off individual lots in this and any future stage without the appropriate design guidelines in place. This happened in a previous stage, which is RO3, I think, on your map there, and resulted in delays, frustration and considerable additional expense to applicants and the Community
45 Association.

Whilst we've been attempting to negotiate with the developer's representative pool to adopt a new set of architecture and landscape guidelines for many years now – and I have to say we have made some progress recently – we still feel very exposed to inappropriate development being permitted which is not in keeping with the existing scale and theme of the development of Magenta. To provide certainty that the existing scale, amenity and theme will be maintained in future stages, we request the following. Firstly, if any increases in density are proposed in the next stage, this should trigger a requirement that a new master plan be prepared for the remainder of the site. Secondly, that indicative design should be included as part of any subdivision application. I don't know how we can judge whether something is going to look good if we have no idea of what type of housing is going in – on there.

If lots in any future stage are to be sold off individually, detailed design guidelines should be prepared and included in the architecture and landscape guidelines for the estate. The other thing which goes to the interrelationship between the Community Titles Legislation and the problems associated with it – the Central Coast Council should require applicants to provide evidence that they have received approval from their neighbourhood association and us, the Community Association, prior to lodging the application with council. We have had application – one resident has actually just gone straight to council without having coming through the process. We are very lucky to live or own property in such a beautiful place, and we would like it to remain so for future generations to enjoy. Thank you.

MR WILSON: Thank you. Now call Bruce Lorking.

MR B. LORKING: Thank you, Mr Chairman, for the opportunity to present at this forum. My name is Bruce Lorking. I'm an owner of a block of land in RO8 which was the previous one to the proposal being put to the panel today. Today, Mr Chairman, I wish to speak about two things: (1) the character [REDACTED] and (2) noise and dust pollution from construction – from the construction site for the number of years to complete. Now, [REDACTED] has told us that the [REDACTED] is no longer the [REDACTED]. He said that due to a structural change, it is now a partnership of three companies. Mr Chairman, [REDACTED] was placed into liquidation on 29 August 2018. I've been not able to find anything – any detail in relation to [REDACTED] apart from the fact that a [REDACTED] – I think is the correct pronunciation of that name. My apologies if that's incorrect. [REDACTED] has been associated with [REDACTED] which was placed into liquidation on 29 August 2018.

Now, the only other person that I've been able to establish as the [REDACTED] [REDACTED]. I have no idea whether [REDACTED] has any equity involvement in the developer, nor any decision-making ability, but I wish to just tell you an anecdote of how I became associated with Magenta Shores which I agree is a beautiful place to live and I hope one day to be a resident there. Mr Chairman, I approached [REDACTED] through [REDACTED] in July 2017, some 18 months ago.

[REDACTED]

MR LORKING: It goes to the [REDACTED].

5 MR WILSON: Excuse me. Can we just please - - -

MR LORKING: The character of [REDACTED].

10

MR WILSON: Just – can we keep the matters to the chair, please.

MR LORKING: Certainly. I was told in writing on 24 July 2017 that:

15 *With the beach homes, the buyers are to settle on the land component which is due around September/October this year.*

which was 2017, last year:

20 *The developer will cover all the building costs, and the buyers only pay for this component once construction has been completed. We have been given a timeframe of 14 to 18 months until construction is expected to be completed.*

Therefore, Mr Chairman, those beach homes should be completed by now.
25 Construction has not started, and nor do we know when it will commence. On the basis of those assurances, I entered into a contract for sale of land. The contract for sale of land was 600 pages long – 600 pages, Mr Chairman – not 60, 600. In that 600 pages contract, there was a draft delivery agreement for the construction of the house. After completion in early 2018, I was told [REDACTED] that the bill
30 would be paid by stage payments, a significant cost variation to the original agreement. On 21 March 2018, the [REDACTED] sent a letter to me which stated inter alia:

35 *Our client does not agree that the inclusion of stage payments in the delivery agreement is contrary to representations made prior to the exchange of sales contract.*

And yet I've just read to you what those written representations were. Mr Chairman, in Australia, a man's word is his bond. [REDACTED]
40 [REDACTED] Now, whilst I will pursue justice through the ACCC and the Fair Trading New South Wales, my question is whether [REDACTED] will sell all lots in stage RO7 on this premise. [REDACTED]
[REDACTED]. Number 2, Mr Chairman, is my concern with noise and dust pollution from the construction site for a number of years until it's complete.

45

My understanding is that all delivery agreements and building contracts for stage RO8 beach houses contain a two-year sunset clause for building completion. As at

30 November 2018, out of the 19 lots in DP number 286616, which is my particular deposited plan, for the beach houses, six remain unsold. Presumably, construction of beach houses in that DP will go on for several years. Stage RO7 which is the stage which we are considering today could potentially result in construction for several
5 more years as none of those lots have yet sold. Noise and dust pollution together with traffic will affect the existing residents potentially for a very long time.

I seek therefore clarification from the developer, [REDACTED], if he is able to attend a meeting with me. I've tried for two years to get a – sorry – 18 months to get a
10 meeting with [REDACTED]. I've never been able to meet [REDACTED]. I've been speaking with [REDACTED]. That's the case. [REDACTED]
[REDACTED]. I seek clarification therefore on a timeline for construction, the method of marketing land only or house and land package and planned traffic flows of construction vehicles from the developer.
15 Thank you, Mr Chair.

MR WILSON: Thank you. I call Mr Morris. Sorry. Mrs Morris. Sorry, Mrs Morris.

20 MS R. MORRIS: Thank you for you good people to come here and listen to us. I guess from what you have heard so far, the owners and residents of Magenta Shores
- - -

MS MORRIS: You can't hear me?

25 MS: Use the microphone.

MS MORRIS: I don't need a phone. I'm quite loud.

30 MS: Not that loud.

MR WILSON: Please address - - -

MS MORRIS: Not that loud.

35 MR WILSON: Please address us. So use the microphone - - -

MS MORRIS: Okay.

40 MR WILSON: - - - if they need to hear you. Thank you.

MS MORRIS: Can you hear me now?

MR WILSON: Not yet.
45

MS MORRIS: I haven't done this for a long time.

MR MILLER: That's okay.

5 MR WILSON: That's okay.

MS MORRIS: Thank you to you good people for coming here and seeing us, and I guess from what we've heard so far, the residents and owners of Magenta Shores are not very happy by the tone of a couple of people that have spoken. All I have to say
10 is not much except that I have the same feelings as Ann Cameron, and she has provided you good people with lots of facts. I have to ask you personally have you visited Magenta Shores? Three of you.

MR WILSON: I haven't, but I am – directly after this meeting, I'm going to have a
15 look at the site.

MS MORRIS: I think it would be a very good idea to see what - - -

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

MS MORRIS: - - - we're talking about.

MR WILSON: That's part of our activities today.

MS MORRIS: Thank you very much indeed for doing so. To the best of my knowledge, the Department of Planning and Environment gave approval for this development sight unseen until recently, that is, around March of this year. The development is not in keeping with the current ambience of the green scope at Magenta Shores, and my personal concern is a tree is going to be planted to
30 camouflage the ugliness of the block from the 18th green. And can we be assured that this sort of development is never repeated again. And, lastly, I sincerely hope that this meeting has not been convened simply to present owners who are affected by this visual pollution. That's all I have to say. Thank you very much indeed for giving me this opportunity.

MR WILSON: Thank you. That wraps up the scheduled speakers. Is there anyone
35 else who wants – who hasn't had a say wanted to say something quickly? We don't want to leave today knowing that someone has a burning desire to talk. No. Okay. Well, that wraps up the official meeting, and we will now – the Commission –
40 myself and my fellow commissioners and Matthew will now go look at the site. Thank you very much. I appreciate you coming by the way. I understand there were some concerns about the location today, but it was the best we could do. So thanks.

MS: Thank you very much, and thank you for coming.
45

RECORDING CONCLUDED

[11.01 am]