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TRANSCRIPT OF PROCEEDINGS

TRANSCRIPT IN CONFIDENCE

O/N H-970123

INDEPENDENT PLANNING COMMISSION

MEETING WITH DEPARTMENT OF PLANNING AND ENVIRONMENT

**RE: STATE SIGNIFICANT DEVELOPMENT CONSENT 7064 FOR A MIXED
USE DEVELOPMENT AT 175 TO 177 CLEVELAND STREET AND 1 TO 5
WOODBURN STREET, REDFERN**

PANEL: **STEVE O'CONNOR**
WENDY LEWIN

ASSISTING PANEL: **ANDREW McANESPIE**
DAN KEARY
BRENT DEVINE

**DEPARTMENT OF
PLANNING AND
ENVIRONMENT:** **DAVID McNAMARA**
BRENDON ROBERTS
JAMES GROUNDWATER

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

DATE: **9.05 AM, WEDNESDAY, 5 DECEMBER 2018**

MR S. O'CONNOR: Thank you, everyone, and good morning. Before I begin, I would like to acknowledge the traditional owners of the land which we meet on today and pay my respects to their elders past, present and emerging. Welcome to the meeting today on an application to modify State Significant Development
5 Consent 7064 for a mixed-use development at 175 to 177 Cleveland Street and 1 to 5 Woodburn Street at Redfern. The modification application seeks approval for internal changes to the approved development, including the following: an additional 280 square metres of retail and commercial gross floor area; layout changes to the approved retail and commercial tenancies; provision of a hotel
10 reception area; and additional residential communal open space.

My name is Steve O'Connor. I'm the chair of this IPC panel, and joining me today on the panel is Wendy Lewin. Other attendees are Andrew McAnespie from the Commission Secretariat, and Dan Keary and Brent Devine from Keylan Consulting,
15 who are assisting the Commission Secretariat on this project. In the interest of openness and transparency, and to ensure the full capture of information, today's meeting is being recorded and a full transcript will be produced and made available on the Commission's website. The meeting is one part of the Commission's decision-making process. It is taking place at a preliminary stage of this process and
20 will form one of several sources of information upon which the Commission will base its final decision.

It is important for Commissioners to ask questions of attendees in order to clarify issues whenever we consider it appropriate. If you're asked a question and are not in
25 a position to answer, please feel free to take the question on notice and provide any additional information you can in writing, which we will then place upon our website. So with those introductions, we can begin. Now, for the benefit of the transcript, can I go around, starting with David, and just ask you to say your name and introduce yourself. That way it assists when it comes to the transcribing part of
30 this process. Thanks, David.

MR D. McNAMARA: David McNamara, Director, Key Sites Assessments.

MR B. ROBERTS: My name's Brendon Roberts. I'm a Team Leader in the Key
35 Sites Assessments team.

MR J. GROUNDWATER: My name is James Groundwater. I'm a Senior Planner at Key Sites Assessments.

40 MR O'CONNOR: Thanks, Andrew.

MR A. McANESPIE: Andrew McAnespie, Commission Secretariat.

45 MR B. DEVINE: Brent Devine, Senior Planner with Keylan Consulting.

MR D. KEARY: Dan Keary, Keylan Consulting.

MS W. LEWIN: Wendy Lewin, IPC Commissioner.

MR O'CONNOR: And Steve O'Connor, IPC Commissioner. So have you guys got an introductory presentation or opening you would like to start with?

5

MR McNAMARA: Yeah, Steve. I could start by just giving a few opening comments about sort of the background of this site. It's got a little bit of planning history to it. And then I'll hand over to Brendon and James to talk more specifically about the proposal and our assessment of it. So the site at 175 to 177 Cleveland Street and 1 to 5 Woodburn Street has been subject to previous approvals. There was an approval on the site of 175 to 177 Cleveland some years ago that wasn't taken up. Subsequently, the applicants then acquired the 1 to 5 Woodburn Street site, and then sought approval for a residential and hotel scheme. That was refused by the Commission in 2017, and subsequently, after 12 months of court mediation processes, the court did issue an approval for a scheme that was somewhat different to the scheme that was refused by the Commission, and that - - -

MR O'CONNOR: Can I just ask there, David, was that a mediated process?

20 MR McNAMARA: Correct.

MR O'CONNOR: Right.

MR McNAMARA: Yes, it was.

25

MR O'CONNOR: Okay.

MR McNAMARA: And following that mediation, there was an approval for a mixed-use building comprising 45 hotel rooms and 20 residential dwellings. There was a condition pertinent to this current modification which restricted the use of a ground floor courtyard area to prevent that from being used for – well, to protect the residential amenity of residents above. At the time of the negotiated outcome, there was some concern that if that turned into a food and beverage type use with outdoor seating, there could be noise and other amenity impacts that could occur. The applicant at the time didn't know what they would – the future use of the space would be, so hence the condition was put in place to protect it. Subsequently, we now have a modification lodged, and I will ask Brendon if you want to - - -

MR O'CONNOR: I've got another - - -

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MR McNAMARA: Yes.

MR O'CONNOR: - - - question, if I can - - -

45 MR McNAMARA: Yes.

MR O'CONNOR: - - - before we move on to the current application. Do you – and I don't care who answers this, but do you know what the key issues were in terms of the compromises that were reached? I just think it could be useful for us to - - -

5 MR McNAMARA: Yeah.

MR O'CONNOR: - - - understand what the Commission previously thought was objectionable about this project and didn't like and how the final approval issued by the court dealt with that issue.

10

MR McNAMARA: Yeah. Steve, I'm happy to talk to that. David McNamara, Director, Key Sites Assessments. The key issues with the refusal and through the mediation process were the amenity of the residential opposition, the residential part of the development, and the height, bulk and scale of the proposal. One of the most significant amendments through the mediation process was to actually flip the residential and hotel components. Originally the residential was proposed on the eastern side of the site immediately facing the railway line, and the hotel was on the west, and then one of the key moves through the court process, which the Commission's experts encouraged, was to flip those uses, and that dealt with a lot of potential noise and amenity impacts on the proposed residential units. It also allowed some reconfiguration of all those units and uses, and the negotiated process through the court also reduced the bulk and the height of the development from what was originally proposed. So really, that was the core – the core issues of concern at that time, and from my perspective, it was quite a mutually happy outcome. All parties were – you know, it was a genuine negotiated outcome and mediated outcome.

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MR O'CONNOR: Good. That's very useful to know. So I take it from that that the FSR exceeded the maximum in council's planning instrument in the original proposal, and it was brought down somewhat through that negotiated process.

30

MR McNAMARA: That's correct. Yeah. Yeah.

35

MR O'CONNOR: Good. Thank you. Now, please move on to the current mod.

MR GROUNDWATER: Okay. My name is James Groundwater, Senior Planner. I might explain – give some of the differences between the approved and the proposed. I have a – some layouts, if you'd like - - -

40

MR O'CONNOR: That'd be great, thank you.

MR GROUNDWATER: - - - just – that I can talk to.

45

MR O'CONNOR: Yeah.

MR GROUNDWATER: So on the left of the page you'll see the approved scheme, the ground floor, the first floor and a section plan. And then on the right of the page,

you will see the proposed ground floor, first floor and section plan. Essentially what's changing is the infilling of some voids on the ground floor. You will see them at the bottom of the page. The proponent is advised that through some finer detailed designs, that those voids are no longer required, so they're just infilling those inside the envelope, and there's a partially covered courtyard which was the subject of a condition that prevented the detail units from – tenancies from using those courtyards. So the proposal is now to seek to enclose those spaces and just combine them to rearrange the internal layout for the two ground floor commercial tenancies, so it's still retaining the two approved commercial spaces, which will require future DA approval for their fit-out and use. That is essentially where the additional GFA comes from. On moving to the first floor - - -

MR O'CONNOR: Just point again where that additional floor space is.

MR GROUNDWATER: So the infilling of the voids.

MR O'CONNOR: Yeah.

MR GROUNDWATER: And infilling of this space here. So essentially this was a covered – which you'll see in this section – a covered courtyard and then an outdoor central courtyard landscaping space. This is all now being infilled, and that results in additional GFA. On the first floor, there's a slight reconfiguration to where the retail tenancy and the hotel reception to provide a new reception for the hotel room, and this is where there is now the podium, I guess, open space, additional landscaping. Essentially there's this light core which is only accessible to the retail component, and as you can see in this section, it just infills the space here.

MR O'CONNOR: And are you saying that future DAs will need to be lodged for - - -

MR GROUNDWATER: Future – there is no consent for the fit-out and use of the commercial tenancies. They will either require through comply and development certificates, or a future development application with council. And one thing to add, there is existing conditions which apply to the other terraces which will apply to this open space here, is the hours of operation essentially says that these courtyards can't be used between 10 pm and 7 am, and obviously will be managed by the body corporate.

MR O'CONNOR: Okay.

40

MS LEWIN: Okay.

MR O'CONNOR: Anything else you'd like to add, or - - -

MR GROUNDWATER: Well, essentially through the assessment, we deemed that whilst it does increase the GFA of the building, it just becomes a more efficient use of the space, resolves, I guess, an unresolved issue, which was this area in the ground

floor, which is – would require the doors to be removed and become a space that essentially would only be accessible to the residents but may not necessarily be a very attractive space.

5 MR O'CONNOR: Attractive space.

MR GROUNDWATER: There's really no passive surveillance down there. It's pretty much entirely covered on the roof and three sides, and therefore the proponent has come in to try and resolve that issue to utilise the space. It doesn't add any bulk and scale to the building. There are no additional external impacts on the proposal.
10 And we feel that it just – it generally creates a better sort of – I guess additional landscaping and more usability of that space for the benefit of the residents.

MR O'CONNOR: Thanks, James. Any other comments you want to make before
15 we ask a few questions?

MR McNAMARA: Probably the only other thing I'd add is that the – this sort of rationalisation of the space wasn't something that was discussed or contemplated at the time of the court proceedings. I think at the time the applicant really wasn't sure
20 what the future of that space was, so this wasn't something that was a point of contention or something that was considered and dismissed previously. So I think that's just important to note.

MR O'CONNOR: Okay. Okay. Wendy, do you want to start with a few questions?
25

MS LEWIN: Yes. The – we note that the modification application came with a BCA Assessment Report.

MR GROUNDWATER: That is correct, yes.
30

MS LEWIN: Yes. And that in the report there are numerous non-complying items, and, basically, all to do with fire and safety. We were interested in how the department assessed a couple of items, one being the relationship now of the commercial waste storage area directly accessed off a fire-isolated corridor, and its
35 point of access being immediately adjacent to the exit path from the fire-isolated stairway that has been introduced to the rear of the new retail – or the proposed retail area as the second exit from that particular floor. So we were interested in how you considered that matter and whether you can actually fire engineer such a matter to be acceptable – deemed to be acceptable. Is that something you would wish to take on
40 notice or have considered or - - -

MR GROUNDWATER: That's something we might take on notice.

MS LEWIN: Good. Okay. All right. With that, you would also be aware that there
45 is a requirement for fire – the minimum distance between fire exits is nine metres. And there seems to be a significant lesser dimension proposed because of the new introduction – the introduction of a new stair here. Now, whilst that could be argued

that it's not a fire-isolated stairway needed from the wine bar but is needed to get access to the commercial waste store, it ends up being part of a fire-isolated circulation stair and part of the exit. So I think that would be something that might need your consideration again. That was that matter.

5

The other matter that is contentious, I suppose, and has been identified in the BCA assessment report is the strip skylight to the wine bar and its relationship vertically and horizontally to the windows of the hotel suites above. So there would be an – excuse this poor graphic, but just for clarification. There's three windows to the hotel suites - - -

10

MR O'CONNOR: Hotel rooms.

MS LEWIN: - - - above. They are directly over the strip skylight which goes to the wine bar below. In the section the sill is directly above – shown directly above the skylight, which, of course, is something that one would have to condition. But, in raising it, there might be some consideration given to whether the loss of amenity access and ventilation, if that's proposed for the hotel room, is possible to achieve. A person is – this is somewhat below the ground level above. A person would be here if the window is raised. If there is clearance, then that is actually just a highlight window, if anything. So whether that causes for some reconsideration of the design strategy in relation to the skylight, the proposed skylight, I suspect that would be of interest to us to see whether - - -

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MR McNAMARA: Okay.

MS LEWIN: - - - you would be able

MR McNAMARA: We might like to have a closer look at that, just to come back with a - - -

25

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MS LEWIN:

MR McNAMARA: - - - consolidated response on - - -

35

MS LEWIN: Yes.

MR McNAMARA: - - - all those BCA design-related issues.

40

MS LEWIN: Yes.

MR McNAMARA: If that's okay.

MS LEWIN: Yes. Of course. And they can be - - -

45

MR McNAMARA: Yes.

MS LEWIN: - - - conditioned. But it's – they are stand out issues in relation to what has already been identified - - -

MR McNAMARA: Yes.

5

MS LEWIN: - - - in the BCA assessment report.

MR CONNOR: Just while you're looking at your notes - - -

10 MS LEWIN: Yes.

MR CONNOR: come back with further questions, but - - -

MS LEWIN: Yes.

15

MR CONNOR: - - - just got a question around – and we will be talking to the council a little later this morning – what your views are about the concerns the council has raised.

20 MR McNAMARA: I think council have had a longstanding concern with the former development on this site that's on the public record. They've objected to all the applications. They sought to participate in the court process. So they've been actively - - -

25 MR CONNOR: Did they participate in the court process?

MR McNAMARA: Yes, they did.

MR CONNOR: They did.

30

MR McNAMARA: Yes. Not completely join, but they did - - -

MR CONNOR: Yes.

35 MR McNAMARA: - - - come and attend the site visit and spoke to the Commissioner. So I will be happy for you – if council will talk. Obviously, their concerns for this particular application related to the bulk and scale and the additional floor space. You could go back and look at council's submissions on all the previous applications and find a similar thing. I mean, we filled in our
40 assessment. And, as you will see in our report, when we looked at the issues of bulk and scale, that on balance the infill nature of this proposal doesn't have any additional impacts external to the site, imperceptible from most public places. And it was more of a numerical change to the floor space, rather than an actual intensification of the development as such.

45

MR CONNOR: So council is more or less in principle opposing the project without having - - -

MR McNAMARA: I probably should let you - - -

MR CONNOR: Yes.

5 MR McNAMARA: - - - ask council that question, Steve.

MR CONNOR: It's just good to know what you might be thinking. That's all. Any questions from Dan or - - -

10 MR KEARY: No, none from us - - -

MR McNAMARA: - - - Andrew?

15 MR KEARY: - - - Steve. I think – I mean, the department has explained their approach. And, you know, from our understanding of your assessment there is no external impacts, no additional amenity impacts. The design changes are all internalised to the site. So we understand that.

MR CONNOR: Okay.

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MR ROBERTS: And maybe just add to that, any internal impacts on the future residents, we think that the future residents will actually benefit probably more from this communal – the use of this communal area. And, as James mentioned earlier, with the condition requiring that that space can't be used after 10 o'clock, together
25 with all the other arrangements that the strata would have to make sure that that doesn't impact the amenity of those residents.

MR CONNOR: Yes. So a more practical impact - - -

30 MR ROBERTS: Yes.

MR CONNOR:

35 MS LEWIN: Yes. Increase the amenity generally.

MR CONNOR: Yes. Yes. Back to you, Wendy.

40 MS LEWIN: No. I think they're the two areas of interest for us that we would like to hear back from you on. They're a small – very small item, but it goes to a reference that you make of the drawings in the consent. And that is there's – in the retail of the approved, you've got 76 square metres. In the modification proposed you've got 76 square metres for the retail, which clearly can't be so. There's about
- - -

45 MR McNAMARA: Yes. As I look at that plan - - -

MS LEWIN: - - - a fifth of that area - - -

MR McNAMARA: - - - there's a drafting error.

MS LEWIN: Well, yes, so - - -

5 MR McNAMARA: We might point that out to - - -

MS LEWIN: - - - you would - - -

10 MR McNAMARA: - - - the applicant, as well, and we can get that corrected.

MS LEWIN: If you could – yes.

MR McNAMARA: Yes.

15 MS LEWIN: Only because it's referenced in your documents.

MR McNAMARA: Yes.

20 MS LEWIN: So I think at this stage that's it - - -

MR CONNOR: Okay.

MS LEWIN: - - - for us.

25 MR CONNOR: Well, I think that concludes our questions. And just thank you again for coming along this morning. And we look forward to receiving a bit more information from you.

30 MR McNAMARA: Yes. I will come back to the Commission with a timeframe, but I would be hopeful that we would be able to get that back to you quite quickly. It should be reasonably straightforward. But we will confirm that later today, a timeframe to provide a written response.

35 MR CONNOR: That would be appreciated.

MR KEARY: Actually, maybe one question. On the issues that Wendy raised with the BCA non-compliances, how would you typically deal with that through the assessment process?

40 MR CONNOR: You mean amended plans or conditions?

MR KEARY: Amended plans or additional information from the BCA consultant. Or is it something you would just condition to be dealt with at CC stage or - - -

45 MR McNAMARA: Both approaches. Yes. Yes. You may well just condition it to be dealt with at CC stage and put the risk back onto the applicant to resolve the issues.

MR KEARY: Yes.

MR McNAMARA: If they – if it was so fundamental you didn't think it was solvable, that's when you would look to ask for further information. But certainly,
5 traditionally it's probably more the former than the latter, is deferring it down to the detailed design and the CC stage.

MR KEARY: And in going back to the Commission you will consider - - -

10 MR McNAMARA: We will consider - - -

MR KEARY:

MR McNAMARA: - - - the appropriateness - - -

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MR KEARY: Yes.

MR McNAMARA: - - - of both approaches there and give you some information on that for your consideration. Yes.

20

MR CONNOR: Okay. Thanks very much. That's the end of the meeting. So transcript off. Thanks.

25 **MEETING CONCLUDED**

[9.27 am]