



**New South Wales Government**  
Independent Planning Commission

## **TRANSCRIPT OF MEETING**

**RE: MIXED USE DEVELOPMENT INCLUDING IN-FILL AFFORDABLE HOUSING – FIVE WAYS, CROWS NEST (SSD-66826207)**

### **COMMUNITY STAKEHOLDER MEETING**

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| <b>PANEL:</b>                | <b>MICHAEL WRIGHT (CHAIR)</b><br><b>DUNCAN MARSHALL AM</b>                 |
| <b>OFFICE OF THE IPC:</b>    | <b>TAHLIA HUTCHINSON</b><br><b>CALLUM FIRTH</b>                            |
| <b>NORTH SYDNEY COUNCIL:</b> | <b>MAYOR ZOË BAKER</b><br><b>NEAL MCCARRY</b>                              |
| <b>LOCATION:</b>             | <b>IPC OFFICE</b><br><b>LEVEL 15, 135 KING STREET, SYDNEY</b>              |
| <b>DATE:</b>                 | <b>11:00AM – 11:15AM</b><br><b>THURSDAY, 12<sup>th</sup> DECEMBER 2024</b> |

**<THE MEETING COMMENCED**

5 **MR MICHAEL WRIGHT:** Take a seat, get comfortable. Good morning. Thanks for coming in. I'm going to make a little statement, just for the record.

10 Before we begin, I'd like to acknowledge the traditional owners of the lands on which we meet, the Gadigal people of the Eora Nation. And I pay my respects to their Elders past and present.

15 I'm Michael Wright. I'm the Chair of this panel. Joining me is my fellow Commissioner, Duncan Marshall. We're also joined by Tahlia Hutchinson and Callum Firth from the Office of the Independent Planning Commission.

20 As you're aware, due to the low number of registered speakers, the Commission has cancelled the public meeting for Five Ways, Crows Nest Mixed Use Development including In-Fill Affordable Housing (SSD 66826207), which is currently before this Commission Panel for determination.

25 The Commission thought it was appropriate to meet separately with those who had expressed their interest to speak at the public meeting, or those the Panel wished to hear from to hear their views on the application.

30 In the interests 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.

35 So we've set aside 10 minutes to hear your views today, Zoë, so if you could please begin.

40 **MS ZOË BAKER:** Thank you. I do recognise that we're here on Gadigal land and pay my respects to Elders past and present. And thank you both and the Commission for the opportunity to address you on behalf of the Council and the community that I represent.

45 I'm Zoë Baker, I'm the Major of North Sydney, but I've also been a Ward Councillor representing this area of Crows Nest and St Leonards since 2008. And I first ran for Council actually because of what I regarded as deep concerns about very poor planning in this precinct, particularly with an understanding about transport and the need to meet housing targets.

50 Like so many of the community that I represent, and it generally is a community that is supporting good planning and understands the need for the density. But we believe that it ought to be supported by planning excellence. Planning that is undertaken in partnership with the community and property owners alike, and that delivers open space alongside essential community infrastructure to serve that increasing future population.

So, I'm not going to repeat the detailed submission that the Council made. But I'd urge you to place significant weight on the issues that have been raised therein when you make your decision. And I'm very conscious of the time constraint, so I'm trying to confine my submission to effectively the headlines.

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So, firstly, the in-fill affordable housing bonus provisions under the Housing SEPP are not as of right. The application must still be evaluated, as you know, again with a merit assessment against section 4.15 of the Environmental Planning and Assessment Act and including a consideration not only of environmental impacts and submissions, but the public interest.

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Secondly, if this application were to be refused, the fact is that the Planning Proposal applying to the land and the recent gazettal of the Crows Nest TOD Precinct reforms ensures that the site supports the delivery of well-located affordable housing.

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So, the 2036 Plan and the Crows Nest TOD Precinct and particularly this issue about envisaged character of the Crows Nest/St Leonards precinct. I know that you've been to the site, and I'm sure that you know that it was part of a detailed and significant strategic planning consideration under the 2036 Plan that was made in August 2020.

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And that was as part of the – it started in 2016 as part of the State Government's then Priority Precinct, and then it changed its name about three times and became an Urban Activation Precinct. The building heights and the FSR under the 2036 Plan were considered. They were informed by extensive community consultation. There were more than a thousand individual submissions to that plan (or about a thousand). And they were also informed by very detailed urban design advice, wind tunnel modelling, and advice from the Government Architect. I sat on a representative committee that included the Government Architect.

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The 2036 Plan provided for a maximum building height on this subject site of 58.5 metres or 16 storeys, and at the time of the making of that 2036 Plan, that was quite a surprise, as the generous uplift in yield was entirely provided post-exhibition and hadn't been envisaged at that site at exhibition.

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The SEPP, the Crows Nest TOD SEPP which you know was gazetted on the 27th of November, provides that exact same 58.5 metre or 16 storeys. It reiterates and it reflects the 2036 Plan heights. And in addition, the Crows Nest TOD as recently made, requires affordable housing to be provided in perpetuity within the precinct. With the finalisation of that Crows Nest TOD plan, the State Government has also switched off the height and FSR bonus provisions of the Housing SEPP.

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So, I think you must have regard to those urban design principles that started in the 2036 Plan and are reflected in the Crows Nest TOD. And in particular, at page 34 of the Crows Nest 2036 Plan, I would ask that you have regard to the following: density is located close to a transport hub such as St Leonards Station or the Crows Nest Metro Station, taller buildings are to be located within 150 to 200

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metres of either station, and transition in height to the surrounding areas; St Leonards is to be read as the predominant centre to reinforce its commercial role, and Crows Nest as a secondary lifestyle destination; large developments are to be located between the stations and transition in height, bulk and scale from the highway to the surrounding neighbourhood areas, the focus of height is referred to as the “knuckle area” within the St Leonards mixed use commercial core; heritage conservation areas are to be protected, new development nearby is to ensure minimal overshadowing and unreasonable visual impact to the public domain or private open spaces of dwellings within these areas.

You know there are other planning principles, but I think those three are really important. These design principles guided the recent TOD Precinct. So, you’ve been to the site and locality, and it’s a very prominent site on a single block on the Pacific Highway, located at the top of a ridge, and it is directly opposite low-density residential heritage conservation area.

The proposed building will be overbearing, and it will provide no transition in bulk, height and scale from the Pacific Highway to the surrounding neighbourhood areas. Indeed, it sits at the edge of the TOD Precinct on the southernmost border of that precinct.

It is not located in the knuckle area within the St Leonards mixed use commercial core, and nor is it between the two stations, nor within 150 to 200 metres of the Crows Nest Metro Station or St Leonards Station, in which taller buildings may be located. Indeed the site is 350 metres from the Crows Nest Metro Station and a kilometre from St Leonards.

The proposed building does not bother to attempt any transition in height, bulk or scale from the highway to those surrounding neighbourhood areas. It’s a brutal full stop hard up against the heritage conservation area. It makes no attempt to minimise overshadowing and avoid unreasonable visual impacts to the public domain or the private open spaces of dwellings within these areas.

The site is large enough that a considered design and a superior design in my submission could have provided a stepping down or a transition towards Alexander Street and the heritage conservation area.

Indeed I’d strongly urge you to reject the ridiculous conclusion of the applicant’s addendum to the Visual Impact Assessment dated the 4th of September 2024, and what I regard as risible photo montages with views from behind a tree – I’m referring to Figures 2-13 and 2-14, for example, as if to suggest that anyone standing on the footpath on the Pacific Highway at the corner of Alexander Street will see more clouds and trees and sky than the proposed building.

The visual impact of the proposed building additional height is overbearing, it’s overwhelming, and it’s contrary to the well established urban design principles of the precinct in which it is located. It will result in unacceptable amenity impacts on the heritage conservation area, and it is inconsistent with the envisaged

character of the Crows Nest TOD Precinct.

5 Affordable housing. The additional 30% in building height and FSR bonus will be in place for the life of that building, if it's approved. The affordable housing provision will not. The proposal seeks a permanent 30% uplift on the gazetted Crows Nest TOD Precinct maximum height without delivering affordable housing in perpetuity. This represents a significant substantial windfall profit that is not available to any of the other sites in the TOD Precinct, as the SEPP Housing provisions have been effectively turned off in the precinct.

10 So, I'd urge you to reject the notion that the proposal ought to be supported merely because it includes a higher rate of affordable housing than the 6% required under the gazetted Crows Nest TOD Precinct controls. The fact is that the higher rate of affordable housing proposed is not to be provided in perpetuity, whilst the precinct rate will be.

15 And even though I regard the precinct rate as inadequate, the Minister regards it as a starting point, but nevertheless it is in perpetuity. At the end of the affordable housing period, these units will be converted to luxury apartments, and they will be sold on the private market. The additional FSR and height will remain and the public benefit that it purports to deliver will evaporate.

20 The Crows Nest TOD Precinct controls, my strong submission to you is that they ought to be applied to this site. The maximum height under these controls is 16 storeys, and it's arguable that those 16 storeys do not meet the urban design principles in relation to the transition to surrounding areas and impacts onto the heritage conservation area. But the proposed 22 storeys will exacerbate and turbocharge these amenity impacts and will result in a terrible building form with consequential impacts on the public domain.

25 It's not in the public interest to permit a single site in the TOD Precinct to have a 30% additional uplift, contrary to the envisaged character of the precinct. Nor is it in the public interest to provide such a bonus for merely 15 years of affordable housing, when the rest of the precinct is required to provide affordable housing in perpetuity.

30 If permitted, I think this will create an enormous development pressure within the precinct to allow that 30% bonus provisions to operate more broadly. And one of the public interest issues there is that in theory, the density and yield in that precinct has been gazetted with regard to all of those impacts, from traffic congestion to the provision of rather inadequately, but the provision of additional open space and community facilities. The 30% hasn't any consideration for that.

35 I therefore urge you to refuse the application on the basis that it lacks strategic merit. It's wholly inconsistent with the envisaged character of the Crows Nest/St Leonards precinct. It fails to provide a reasonable transition to the heritage conservation area and surrounding neighbourhoods. And it will result in unacceptable amenity impacts on the heritage conservation area, and the

surrounding neighbourhoods, including overshadowing and traffic congestion. And it is therefore not in the public interest.

5 Finally, and of some weight I think, is that if this height is to be approved here, the impacts will not be just felt in the precinct, but in the southern portion of the Pacific Highway, which itself has been the subject of careful planning by Council over more than a decade, and has been between McLaren Street and the Pacific Highway, delivered at least 2,000 units within that period. So it's not that we're as  
10 a council or a community rejecting the density, it's that the density has to be reasonable and still have to deliver good design and reasonable amenity impacts on those lower density surrounding neighbourhoods.

Thank you.

15 **MR WRIGHT:** Thank you very much. Duncan, have you got any questions for the Mayor?

20 **MR DUNCAN MARSHALL:** One question, and I'm not quite sure whether I heard you correctly about the height on – as part of the 2036 strategic planning document, that the height on this site was raised after public consultation, post ...

**MS BAKER:** Post-exhibition.

25 **MR MARSHALL:** Okay. Do you recall what the height was prior to that?

30 **MR NEAL MCCARRY:** I can answer that, if I may. Neal McCarry, the Strategic Planning Manager at North Sydney Council. That site along with several others in the precinct at the time of exhibition had an "S" on them, and that stood for "Significant Site". It had some principles commenting on that, but they didn't nominate a particular ...

35 So, if we go back to the earlier one, early version, there was no change in that area. Then at exhibition stage, that and along with several others had an "S" on them. And then at the finalisation stage, that went to 16 storeys.

**MR MARSHALL:** And I hear your comments, Zoë, earlier, that perhaps there was a view in the Council that 16 storeys was too high. Is that, given the TOD's been gazetted, is ...

40 **MS BAKER:** The Council position, and I would say the community position, is for the heights there it's given, it was given under the 2036 Plan, originally they applied for 19 plus storeys, the panel rejected that, and they've got 16. We understand that 16 is really the height and we would say the maximum height that that applies to the site. There's not a suggestion that anyone should revisit that. It's  
45 been well and truly – it's been well and truly prosecuted both with the 2036 Plan and now at the gazetted height in the Crows Nest TOD.

**MR MARSHALL:** Okay. And could I ask, do you have a view, does the Council

have a view about the likely future character of that Crows Nest and St Leonards spine, given the TOD's now gazetted and those heights have been provided for.

5 **MS BAKER:** The thing about the TOD and those urban design principles is that prior to the Urban Activation Precinct, from 2011 onwards, the Council itself has been doing a series of precinct planning around in that precinct.

10 There are two sets of documents, precinct 1 and precinct – another one called precinct 2 and 3, and in fact those urban design principles that went into the 2036 Plan and that have now been adopted by the TOD, were urban design principles that originally came from Council's own planning. And it was about the heights, there being the major clustering of heights between the stations and at the stations, and a transition as you move towards Willoughby Road and the lower scale there, and to the heritage conservation area.

15 **MR MARSHALL:** Okay. And, I mean, I hear completely your comments about height in the strategic planning context and all those sorts of things, but just thinking about the affordable housing component of all of this proposal. And I think it's 48 affordable housing units over 15 years – and I also hear your comment about in perpetuity. But I guess, my understanding is that this site is rated for 6% affordable housing.

**MS BAKER:** In perpetuity under the TOD.

25 **MR MARSHALL:** But what we're achieving is something which is way beyond 6% for a short – I mean, I guess, I just wanted to hear your comments about that trade-off between ...

**MS BAKER:** I do, actually.

30 **MR MARSHALL:** ... more affordable housing early versus – and for a period of time versus ...

35 **MS BAKER:** Because further in the TOD Precinct, in the over-station development currently, there's a State Significant Development Application and the developers there are delivering new luxury affordable, new luxury housing above the station. But they are providing 30% affordable housing in perpetuity.

40 **MR MARSHALL:** And is that required ...?

45 **MS BAKER:** And it's not that required. That wasn't required at the time that they have submitted it, and it's actually higher than what the TOD provides. So, I suppose that my reference to that is the delivery of affordable housing in perpetuity, I think, has a greater value in a place like Crows Nest/St Leonards. Not least because it is immediately in the heart of a very big health precinct, but also an education precinct. Key worker accommodation is at crisis point for the hospital. Forty-eight units for 15 years, it's a bit of a repeat of what most councils have experienced with the former Affordable Rental Housing SEPP where

building houses that had a 10-year life span, at the end of the 10 years, it was effectively a great investment strategy where a portion of housing was held and the big bonus of the additional built form remained long after the public benefit of the affordable housing had gone. And so I think that on this site, this has a very big strategic purpose because it's the first of those sites in the TOD. It's a very prominent site. It will have an impact about what happens elsewhere, notwithstanding the gazettal, I think.

**MR MARSHALL:** Okay. We have time –

**MR WRIGHT:** Thank you very much for coming, Zoë and Neal. This meeting – just to reiterate, this meeting has been recorded and its transcript will be made available on our website. And just a reminder that submissions for this project will close at 5 p.m. on Thursday the 19th of December 2024. So if you have any new material with you today that you would like to also be published on our website, please leave a copy with the Commission staff members, otherwise feel encouraged to make a submission for or by the 19th. Thank you so much for coming in.

**MS BAKER:** Thank you. That is sort of what I said.

**MS TAHLIA HUTCHINSON:** It's going to go up online, just so you know.

**MS BAKER:** Thank you.

**>THE MEETING CONCLUDED**