



TRANSCRIPT OF MEETING

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

DEPARTMENT MEETING

PANEL:	MICHAEL WRIGHT (CHAIR) DUNCAN MARSHALL
OFFICE OF THE IPC:	BRAD JAMES TAHLIA HUTCHINSON CALLUM FIRTH
DEPARTMENT OF PLANNING, HOUSING AND INFRASTRUCTURE:	AMY WATSON ADITI COOMAR JOHN MARTINEZ
LOCATION:	ZOOM TELECONFERENCE
DATE:	9:30AM – 10:30AM THURSDAY, 5th DECEMBER 2024

<THE MEETING COMMENCED

5 **MR WRIGHT:** Before we move into proceedings, I'm just going to make an opening statement. So, I'd like to acknowledge that I'm speaking to you from Gadigal land, and I acknowledge the traditional owners of the country from which we virtually meet today, and I pay my respects to their Elders past and present.

10 Welcome to the meeting today to discuss the mixed use development including in-fill affordable housing at Five Ways, Crows Nest (SSD-66826207) currently before the Commission for determination. The Applicant, Deicorp Construction Pty Ltd, proposes to construct a 22-storey mixed use development comprising commercial premises within a 3-storey podium, a 19-storey residential tower above with 188 apartments (including 141 market and 48 affordable housing apartments) on seven basement levels. The site is located in the North Sydney local government area.

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20 My name is Michael Wright, and I am the Chair of this Commission Panel. And I am joined by my fellow Commissioner, Duncan Marshall. We are also joined by Brad James, Tahlia Hutchinson and Callum Firth from the Office of the Independent Planning Commission.

25 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.

30 This meeting is one part of the Commission's consideration of this matter and will form several sources of information upon which the Commission will base its determination.

35 It is important for the Commissioners to ask questions of attendees to clarify issues whenever it is considered appropriate. If you are asked a question and you 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.

40 I request that all attendees here today introduce themselves before speaking for the first time, and for all attendees to ensure that they do not speak over the top of each other, to ensure accuracy of the transcript. Thank you very much and we will now begin.

45 And I'm just wondering whether someone from the Department wants to step through the key issues which were identified in the agenda? So, is there someone from the Department who will firstly introduce everybody to us and then take us the next agenda item on key issues?

MS WATSON: Thanks, Michael. Good morning. I am Amy Watson. I am the Director of Social & Affordable Housing Assessments at the Department of Planning, Housing and Infrastructure. And with me today I have Aditi Coomar and

John Martinez, and we're from the In-fill Affordable Housing Investments Team.

5 So, thanks for inviting us today to brief you on the proposed in-fill affordable housing process at the Five Ways in Crows Nest. I'll start off with a very brief introduction and then we'll take you through a presentation which focuses on the key items on the agenda which was provided to us.

10 I just want to start off by acknowledging that the application is referred to the Independent Planning Commission for determination, as North Sydney Council has objected to the proposal. The Department also received 35 objections from the public in response to the exhibition of the Applicant's Environmental Impact Statement in May and June this year, and a further 18 objections in response to the exhibition of the Applicant's amended proposal in September.

15 The Department's Assessment Report has been provided to the Commission. The Department's Assessment Report has considered the merits of the proposal in accordance with the requirements under Section 4.185 of the *Environmental Planning and Assessment Act 1979*, and our assessment has also considered the issues raised in submissions, and the Applicant's response to those issues.

20 The Department's assessment concludes that the proposal is acceptable and recommends the proposal be approved, as it is permissible with consent. It provides a mixed use commercial and residential development which is consistent with the objectives of the mixed use zone under the North Sydney Local
25 Environmental Plan. It will provide a built form which is consistent with the statutory and strategic framework for the site. It would be compatible with the feature character for the state land that's in the Crows Nest precinct following the recent TOD rezoning. And although the proposal would be highly prominent, it would not result in an unreasonable overshadowing, visual or heritage impacts.

30 I am now going to handover to John, who's going to take you through the first key issue on the agenda, and John and Aditi will speak to those matters.

35 **MR WRIGHT:** John, I think you might be ...

MR JOHN MARTINEZ: Sorry. Thank you, Amy. My name is John Martinez, Senior Planning Officer in the In-Fill Affordable Housing Assessments Team, and good morning everyone.

40 I will start off with a brief overview of the strategic context along with the statutory controls. The site is in Crows Nest and has been subject to the St Leonards and Crows Nest 2036 Plan, a recent Planning Proposal and the Crows Nest Transport Oriented Development (TOD) program. All undertaken by the Department.

45 The extent of the land considered in the 2036 Plan has been outlined in blue, as shown in this slide, with the star here marking the location of the site. As noted in the Assessment Report, the Planning Proposal in 2023 was guided by the 2036

Plan and informs the site's FSR and height as governed by the North Sydney LEP at the time of lodgement of the application, being 16 storeys of 58.5 metres, with an FSR of 5.8:1, including a non-residential FSR of 2.5:1.

5 It should be noted that the LEP allows a 2 metre exemption for lift overruns of plant rooms. As shown in this slide, the Planning Proposal included a reference design scheme for the site, which identifies a 16-storey mixed building with a 13-storey triangular residential tower with an atrium, above a 3-storey commercial podium with a mezzanine.

10 At the same time as the Planning Proposal was finalised in December 2023, the Planning Systems SEPP was amended to create an SSD pathway for in-fill affordable housing proposals. The Housing SEPP was also amended to provide new incentives for affordable housing in accessible locations. This allows up to 15 30% bonus height and floorspace, or 15% of the overall gross floor area of the development is provided as affordable housing for 15 years.

20 This application was submitted in May 2024 under the new in-fill affordable Housing SEPP pathway and seeks to apply this plan's provisions. The site now also forms part of the Crows Nest Transport Oriented Development precinct, following amendments to the Planning Systems SEPP and Housing SEPP last week.

25 The extent of the land within the Crows Nest TOD area is in shaded dark pink as depicted in this slide. The Department notes the recently set of controls provide a minimal non-residential FSR of 1:1 rather than 2.5:1 for the site. No other changes were made to the 58.5 metre building height of control and overall FSR of 5.8:1 under the LEP.

30 The Planning Proposal finalisation report and the post-exhibition massing within the Urban Design Report, however, acknowledges the 22-storey building proposed on this site under the in-fill affordable housing provisions.

35 It is important to note that this application was lodged under Schedule 1 of the Planning Systems SEPP prior to both the exhibition finalisation of the TOD program. Therefore, the savings provisions would apply, and the application has to be assessed under controls that were in force prior to the TOD.

40 Did the Commission have any questions?

MR WRIGHT: So, sorry, John, you're saying that because this particular DA was submitted prior to the TOD EIE being exhibited, that the savings provisions now TOD has been adopted, you're saying it's the provisions in the TOD for this Crows Nest/St Leonards precinct apply to this development, and therefore the affordable housing bonus provisions in the Housing SEPP continue to apply to this site. Correct?

MR MARTINEZ: Yes, that's correct.

MR WRIGHT: Thanks. Yes.

5 **MR DUNCAN MARSHALL:** It's a detailed question, but my eyes at this distance from the screen might be evading me, but when you're talking about the podium and the mezzanine issue in the reference design provided, is there a mezzanine in that scheme, or is it just a tall first storey and then two additional storeys above that?

10 **MR MARTINEZ:** Is this in relation to the Planning Proposal?

MR MARSHALL: Yes.

15 **MR MARTINEZ:** Or the current ... Okay. Yes. So, towards the lower end of the site, that's Alexander Street, it slopes down. So, the reason I'm picturing it for a mezzanine, as depicted in this reference, came in the Planning Proposal.

20 **MR MARSHALL:** The section there is presumably the higher end of the site, so therefore it's now – if my eyes are not deceiving me, are not showing a mezzanine at this point in time.

MR WRIGHT: Is it correct, John, that that elevation we're seeing of the tower is from the Planning Proposal?

25 **MR MARTINEZ:** That's correct.

30 **MR WRIGHT:** As opposed to the 22 storeys. Can I just ask a question about the LEP and height levels along the ridgeline. From my reading of some of the documentation, it appears the intention was to step down height from, I think it was described as the two sort of transport node knuckles of St Leonards Station and Crows Nest Metro Station, as you move south along the ridgeline towards this site. Is that a correct interpretation of the aspiration of that LEP in terms of height on that site? And is that particular outcome changed at all by the operation of the TOD?

35 **MR MARTINEZ:** Yes. So the rest of that ridgeline that's commencing from the start of the Metro Station to the northwest along the Pacific Highway. However, there is a diagram that we can show to the Commissioners from later on, and we'll discuss the indicative built form of what's envisioned this portion of Crows Nest.

40 **MR WRIGHT:** Okay. Well, we can get to that later when it comes up in the slide pack.

45 **MR MARTINEZ:** Okay.

MR WRIGHT: Anything else on this one? Otherwise, we might ...

MR MARSHALL: Well, only if ... I mean, we understand that there's been a

5 recent Environment Court judgement regarding the consideration of the TOD, even before it's formally adopted or whatever the correct words are. As I understand, the essence of the judgement is that TOD should have been automatically considered in an assessment in that other case. Are you aware of that judgement and whether it has any impact or does it – have you paused for thought in the assessment that that's been provided in this case?

MR MARTINEZ: We'll have to take that on notice.

10 **MR MARSHALL:** I mean, I think it was for a development near [unintelligible 00:12:37] across the road. I think it was for the North Sydney Gas Building, I think. Is it just across – I think it's to the west of this particular site. If you could take that on notice, that would be much appreciated.

15 **MR MARTINEZ:** Yes. Okay.

MS WATSON: Sorry. Would the Commissioners just mind to wait one minute – we've just got to relocate to another room. We'll just be like 30 seconds?

20 **MR WRIGHT:** Okay, not a problem.

MS WATSON: Thanks.

[Audio gap 00:13:06 to 00:13:53]

25 **MS WATSON:** Apologies. Aditi will just take you through the next slide now.

MR WRIGHT: Are you and the other fellow officers, are you able to hear us clearly when we're asking questions?

30 **MS ADITI COOMAR:** I think it's okay. Sometimes there's a little bit of a lag, but it should be fine.

MR WRIGHT: So, a lag rather than volume?

35 **MS WATSON:** It is a little bit quiet.

MR WRIGHT: Okay, we'll yell. We will speak up.

40 **MS WATSON:** Thank you.

MS COOMAR: Thank you very much. All right. Can we move to the next slide please, John? Good morning, Commissioners, my name is Aditi Coomar, Team Leader of the In-fill Affordable Housing Investments team. And I will briefly take you through the building height and density agenda item.

45 John, if you can please move to the next slide, that'll be good. So, as mentioned, the maximum building height and density for the site is governed by North Sydney

LEP and the Housing SEPP. The maximum permissible FSR applying the Housing SEPP controls is 7.54:1, and the proposal complies with this requirement.

5 Now, looking at the slide, the blue height plane shown in the top left-hand diagram demonstrates the maximum North Sydney base LEP height of 58.5 metres. This is without the Housing SEPP bonus. Applying the Housing SEPP bonus provisions, the maximum permissible height for the site is 76.05 metres, which is depicted by the orange height plane. With the plant room allowance, this height increases to

10 78.05 metres.
The tower component will breach the maximum permissible height by 1.8 metres, with a 2.16% variation approximately. And the extent of the breach is demonstrated in the top-left diagram of this slide.

15 The plant rooms and lift overruns of the development will breach the maximum permissible height by 1.69 metres, with a 2.88% variation. The extent of this breach is demonstrated on the bottom-left hand side of the slide, with the blue height plane.

20 The Applicant has submitted a clause 4.6 variation request to vary the Housing SEPP height plane as the lift overruns and a portion of the tower will breach the maximum permissible height. The Department has considered and accepted the justifications in the Applicant's clause 4.6 variation request as: post exhibition of the IS, the design of the development was amended to increase the internal floor-

25 to-floor heights to be 3.2 metres, to accommodate the waterproofing requirements and the energy efficiency requirement services of the National Construction Code.

This resulted in an overall height increase to the development's residential tower by approximately [audio glitch 00:17:00], the permissible building height for the site. Additionally, the plant required to service a development of this scale cannot be accommodated within the 2 metre height control. The cooling towers selected to service the entire development will have a height in excess of 3.81 metres. We note that the North Sydney LEP allows up to a 5-metre exemption for a

30 development of this scale elsewhere within the Council.

35 It is evident that the proposed height breach would not result in any additional GFA or dwelling yield. Further reduction in height of the plant rooms or the internal floor-to-floor heights would not provide any material benefits. The proposed rooftop plant/lift overruns and stairs have been located on the roof with setbacks where possible, noting that the triangular shape of the building with the

40 central void, reduces the ability to locate the plant and services centrally.

Overall, the Department considers that the proposal is compatible with the desired feature and emerging character of the area, as envisaged in the 2036 Plan, the Crows Nest TOD precinct and the Housing SEPP, which seek to incentivise the

45 delivery of affordable housing by allowing height and floor space bonuses in accessible locations.

That's all from me. Did the Commission have any questions?

5 **MR WRIGHT:** If I may. And thank you for that. And I'm just wondering whether – I know a lot of the assessment was based on the taller configuration of the building, the kind of orange plan, if you like, shown on the diagram to the left. I just wonder whether the Department has any thoughts about the, if you like, additional impact that arises because of the bonus floors achieved because of the Housing SEPP. I mean, do you have a sense of whether the impact is substantially greater in whatever terms, overshadowing, visual, heritage, whatever it might be, because of those additional storeys?

10 **MS COOMAR:** The Department has considered the additional impacts comprehensively in the Assessment Report, and we will be discussing in the later sections of the briefing as well. So, in terms of amenity impacts, overshadowing, separation and the visual and heritage impacts. And our assessment has concluded that the impact would not be that detrimental on the broader catchment.

15 **MR WRIGHT:** But my point was about whether you'd considered the impacts of the 20-something storey building versus the 16-something storey building. Did the Department consider the change in impact between those two scenarios?

20 **MS COOMAR:** Yes, the Department has considered the impact of the change in scenarios in terms of heritage impacts, overshadowing and the other amenity impacts on the locality.

25 **MR WRIGHT:** Right. I'm not quite sure we're getting to the issue I'm trying to raise, which is whether you've considered a 16-storey impact versus a 20, whatever it is, 22-storey impact. You have considered those two scenarios?

30 **MS WATSON:** We have considered those. We can probably take that on notice and if the Commission wanted us to come back with any further clarification on those points, but we would have to go back and look into the Applicant's EIS to provide a more specific answer for you. But we did consider the additional impact of the development compared to 16 storeys and 22. We note that the statutory framework provides the maximum permissible height being up to 30% higher. We know that is a maximum, not an entitlement as such, and we have considered that. But if the Commission would like us to explore anything in particular further, we can come back in writing on that.

35 **MR WRIGHT:** I mean, I guess if you had a document already which addressed the kind of 16-storey impacts, that would be good to see. But we might just need to think about whether, if we need to get you to do more work, whether that's the work we want you to do.

40 **MS WATSON:** Yes.

45 **MR WRIGHT:** My other question was with regard to the increasing floor heights that resulted from meeting parts of the National Construction Code. I'm just a bit

confused about why the floor heights weren't defined to meet the code in the first instance. Did something change or ...?

5 **MS COOMAR:** Once the application was lodged and government architects reviewed the application, they had advised that there were some changes brought forward in the National Construction Code in terms of energy efficiency services, insulation requirements and thermal stringencies, which were not considered and probably not prevalent at the time of the lodgement of the application. So, we had notified the Applicant of that, and that was the reason why the height had to be
10 amended.

15 **MR WRIGHT:** You said, "probably not relevant." Could you perhaps take on notice, but could you confirm that because, I mean, it sounds like I would have ordinarily thought that the Applicant would need to meet the National Construction Code in its design, and not sort of revise floor heights halfway through a process. And so if you could confirm that that was an actual change, then that would be good to understand.

20 **MS WATSON:** We understand that there are, you know, the National Construction Code set those requirements, and there are different design and construction methodologies to meet those requirements. We understand that it doesn't set a floor-to-floor requirement as such that the Applicant had to meet, but it's more about the clearances and what not, and being able to accommodate those requirements within the space allowed.
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So, we understand that there was a change to the code that has only recently come in, and that's why the Applicant's initial plans didn't factor that in. Upon becoming aware of it, they amended their design to be able to fit that in, and that's what's resulted in the change. So, we do understand that it's something that, you know, there are many ways to design it, but in this case the only way they could meet that was by making that minor increase all the levels, which did increase the overall height.
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35 **MR WRIGHT:** I mean, an alternate way of responding to that code of course, was the need to reduce the height by one level and then not have to submit a 4.6.

MS WATSON: Yes, sorry, I couldn't quite hear that clearly.

40 **MR WRIGHT:** Sorry, I said the alternative way to deal with that change to the code, Amy, could have been for the proponents to take one level off the height of the building, and then obviously not submit a 4.6 variation.

MS WATSON: That's true.

45 **MR WRIGHT:** Okay. I think we're done on height and density for now. If we're going to deal with matters like overshadowing a little later, yes.

MR MARTINEZ: Thank you. I will now talk about the next topic on the agenda

– podium and tower design. The base of development consists of a three-storey podium with a mezzanine. Council raised concerns that the podium height and scale is 16 metres, being perceived as four-storey, which is excessive. The Department has considered concerns but concludes that there is no LEP or other requirement for maximum podium height and scale.

The podium has been designed to accommodate the minimum commercial floor space to comply with the minimum FSR of 2.5:1 and has been well articulated through breaks and indents.

The scale of the podium would respond appropriately to the two to four-storey building heights in the immediately surrounding context. The reference to signing the Planning Proposal as well as the three-storey height of the Crows Nest Hotel.

The proposed 19-storey triangular residential tower is set back 6 metres from the podium edges, with apartments located around the central void or breezeway.

Public submissions raised concerns regarding the overall tower site and glare due to extensive façade lengths. The Department acknowledges the concerns but notes that the triangular tower form is guided by the applicable development standards in the Housing SEPP, the irregular shape of the site, and the reference design scheme in the Planning Proposal.

The length of the façade has been broken where possible, and glare control elements included in the materiality and façade design. The Department has recommended conditions to ensure that glare is controlled satisfactorily.

Did the Commission have any questions?

MR MARSHALL: Just a question in terms of podium height, because it's just – looking through the documentation, there are different views as to whether this constitutes being effectively a three or four-storey podium. And clearly the site steps away, I think, to the south and to the east. Has there been any consideration of a stepped approach – or could there be a stepped approach to the podium to reduce height, or is that not possible, from the Department's point of view?

MR MARTINEZ: I don't think it's possible. It is following consistently with the Five Ways intersection. And as you can also see in the top-right image, it is a four-storey building that is consistent to the right-hand side of a two to three-storey building.

MR MARSHALL: In looking through the documentation, I couldn't readily see that there were section drawings which showed the proposed design, including the podium, and adjacent building heights such as the heritage building with the hotel and the like. Was the Department able to consider that sort of material or was that sort of material provided, are you aware?

MR MARTINEZ: Yes. From my understanding, there was contextual elevations

provided on all three sides of the site, that shows the neighbouring developments. And we have considered the existing heights neighbouring to the site.

5 **MR MARSHALL:** And just, I guess, a technical planning question. Is the mezzanine regarded as a storey or not a storey?

MR MARTINEZ: Not a storey.

10 **MR MARSHALL:** And that derives from a definition in ...?

MR MARTINEZ: BCA and the Standard Instrument.

MR MARSHALL: What was the last comment?

15 **MR MARTINEZ:** The Standard Instrument definition.

MR MARSHALL: Okay, all right. Thank you.

20 **MR WRIGHT:** Looking through some of the proponent's material, they describe the design of the podium internally as effectively a collection of buildings. I know that there are – there are sort of like there are two thoroughfares for pedestrian access. I wasn't clear what they meant by a "collection of buildings," and I wasn't clear whether there was in fact pedestrian access through what appears to be sort of like a chequerboard of different structures at the podium level. Are you able to
25 explain how that collection of buildings design element would operate?

MR MARTINEZ: I will have to take that on notice.

30 **MR WRIGHT:** Are there any more questions on the podium? Okay. Thank you very much. We might move onto the next issue.

MR MARSHALL: Oh actually, before we do. I wonder whether the Department considered the kind of materials and colours palette at this stage, or whether that's a future consideration?
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MR MARTINEZ: Yes, we have considered the material and colour palette as part of the design of the podium.

40 **MR MARSHALL:** Okay. And do you have any comments about its contribution or otherwise to nestling into the urban context?

45 **MS COOMAR:** I can answer that. The Applicant's heritage impact statement and the visual impact statements note that the colour palette and the materiality that have been used for the podium have been derived from the Crows Nest Village and the adjoining Crows Nest Hotel, so they have used more fine-grained materiality in the context of the heritage conservation areas and the heritage items, mainly the Crows Nest Village nearby. [Pause]. Hello?

MR WRIGHT: Heritage impacts I think is the next ...

MS COOMAR: Can you hear? Yes, sorry. Okay. So, the next item in the agenda is heritage impacts, so we'll move onto the heritage impact assessments.

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The site is located in a transitional area which includes low density, medium rise, shop-top housing, and high-density developments. And there is multiple heritage items and two heritage conservation areas located to the northeast and southeast, identified in the slide.

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Council and public submissions raised concerns that the proposal would result in visual impacts on the locality, the nearby heritage items, and the heritage conservation areas. The Applicant's Heritage Impact Statement and visual impact assessment concluded that the lower levels of the building were screened from the nearby conservation area by existing commercial buildings in Crows Nest.

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Further, the main element of the building that would relate to the nearby heritage items is the podium, the scale of which is compatible with these items, especially the Crows Nest Hotel which is being identified on the slide.

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While the tower is substantially larger than the surrounding heritage items, follows the planning controls for the site, and has been set back 6 metres from the boundary. The Department agrees with our Applicant's arguments. Additionally, we also consider that any redevelopment of the site, in line with the North Sydney LEP, have also been highly prominent in this location. As such, the overall benefit of providing affordable housing the locality outweighs the additional visual impacts on the nearby heritage items and conservation areas, caused by 30% increased height beyond the North Sydney LEP development standards.

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Given the planned transformation of the Crows Nest precinct, further new skyline elements are expected in the locality, and the building will be consistent with the envisaged broader skyline context.

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Does the Commission have any questions on that?

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MR WRIGHT: If I might. And thank you. I read the impact assessment with interest. And both the heritage impact assessment and to some extent, the visual impact assessment, kind of use the future planned character with a great deal more development as kind of the baseline for assessing impacts. Which I was wondering about, whether that was the right basis or the only basis that should be considered for assessing impacts. I mean, I would have thought another basis for considering impacts would be to consider the existing urban and heritage environment as it was. I wondered whether you have any thoughts on that.

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MS COOMAR: We have considered the Applicant's assessment of the existing character of the area; however, we do acknowledge that the planning controls for the site allow for a 58.5 metre tall building plus the bonus that is also available under the statutory framework. Therefore, we have paid more attention to the impacts on the character of the area and how the building will finally be

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compatible with the future character as envisaged in the statutory and the strategic framework for Crows Nest.

5 In our assessment of how the building relates to the existing character, we have acknowledged that yes, there are heritage items, and the podium has been designed to be compatible with these items. But the building will be very prominent at its location.

10 **MR WRIGHT:** Meaning the tower building?

MS COOMAR: The tower. Yes.

15 **MR WRIGHT:** I mean, the image on the left on the screen – sorry, on the right on the screen, I mean, they might have tried to colour the 3D render of the new building to give a better impression of what it might look like in reality, because it does look like a big new element adjacent to at least the Crows Nest Hotel, which is one of the heritage items, I think, in the vicinity.

20 **MS COOMAR:** Yes.

25 **MR WRIGHT:** So, yes, it does ... I've had a moderate amount of experience in looking at impact assessments and I thought that the approach of considering future character as the basis for assessing impacts, a sort of novel approach, but maybe this is not so unusual in the Sydney or New South Wales context. That was more of a statement than a comment.

30 **MR MARSHALL:** Can I just ask a question, and it's probably going to be difficult to answer. But I think, Aditi you indicated that in balance, the provision of affordable housing outweighed the heritage impacts in this case. Is there any sort of quantitative assessment that backs that up, or is it just a – is that an intuitive judgement on the part of the Department?

35 **MS WATSON:** I can answer that very briefly. Just to say that, I guess, I don't think Aditi said that the heritage impacts or the affordable housing, you know, tipped it over or outweighed the heritage impacts. But just that any development of this scale as envisaged by the planning controls would be highly prominent and would result in obviously a change to the visual context of the area, and that would result in heritage impacts, as we've outlined in our report. However, in the context that the development is consistent with the statutory and the strategic framework for the site, we considered that that was a reasonable outcome, and that those impacts were unavoidable if the development was to be achieved consistent with that strategic and statutory framework that applies to the site.

45 **MR MARSHALL:** Thank you, Amy.

MR WRIGHT: And we're dealing with visual impacts in this point, aren't we?

MS WATSON: Yes. There's not really any physical – it doesn't touch any

heritage items, so it more is about the visual impacts and the relationship with the heritage context.

5 **MR MARSHALL:** I mean, looking at the approach taken in the heritage impact assessment and the visual impact assessment ... I mean, it seemed that the visual impact assessment, while it's overall conclusion was to be comfortable with the impact of the development, when it looked at particular views, it did, I think, identify that there were high to moderate impacts on specific views arising. Which kind of gives a better sense, I think, of the actual impacts that we need to consider.

10 **MR MARTINEZ:** Can I just add on, in case it wasn't made clear. Under the Housing SEPP, there is a requirement to consider the future characteristics of the precinct. In this case, we have considered both the 2036 Plan and the Crows Nest TOD precinct.

15 I do appreciate the comments with the visual impact, that it will stand out when viewed from the heritage conservation areas as well as the nearby heritage items. However, as I will show you later in the later slides, the Crows Nest TOD has considered the preservation and integration of the heritage items towards Pacific Highway, but also further down Pacific Highway where that ridge knuckle will be, will predominantly be 40-storey high buildings, which will be seen pretty much all over the Crows Nest area, regardless whether it's in a heritage conservation or not.

20 **MR MARSHALL:** I guess this is just the first development which is going to be of this kind of scale in this locality.

25 **MR WRIGHT:** Sorry, John, while you're talking, just going back to that podium scale, it's relative to this heritage discussion. Talking about commercial floor space provision and a minimum requirement – sorry, I just want to make sure I understand. Is it the case that you need as much floor space as is being proposed for commercial on the podium to meet that floor space ratio minimum? So, if you hypothetically took a floor of the podium out, you'd be under the required amount of commercial floor space. Is that correct?

30 **MS COOMAR:** Yes. So, at the time of lodgement of the application, the minimum for non-residential floor space ratio for that site was 2.5:1. And the commercial floor space that has been proposed is 8,002 square metres, which just complies with this requirement, and that has been accommodated within the podium.

35 **MR WRIGHT:** Okay, thank you very much.

40 **MS COOMAR:** And I would also like to add with regard to the visual impacts, that the Applicant did propose a digital billboard at the corner of the podium, which the Department raised concerns about. And in response to the concerns, the Applicant deleted that digital billboard to improve the visual impact and how the proposal would be perceived from the adjoining heritage items.

MR WRIGHT: I think we're happy about that, actually. Yes. Okay. Anything else from you on heritage?

MR MARSHALL: No.

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MR WRIGHT: Oh, sorry, actually, just ... I mean, it's a detail matter in the heritage assessment, but there did seem to be in one of the diagrams provided of the site itself, some suggestion of some high heritage archaeological or other feature, which didn't seem to then have any consequence or impact in the outcome of the impact assessment. It might be something that you can't recall at the moment, but I'm just wondering whether you recall that diagram and how that issue was considered or not.

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MS COOMAR: Can we please take that on notice, and we'll look into it?

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MR WRIGHT: Yes.

MS COOMAR: Thank you.

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MR WRIGHT: It's on page 41, high archaeological potential, which was not discussed on page 43 or in Table 5, if that's helpful.

MS COOMAR: Thank you very much. We will take that on notice.

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MR MARTINEZ: Are we okay to move onto the next agenda topic? Thank you. Residential amenity. The 188 residential apartments have been designed to face either the Pacific Highway, Falcon Street or Alexander Street, located around an internal void which provides open air corridors/breezeways, to all apartments.

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The proposed design impacts on residential amenity have been discussed in detail in the Assessment Report. I'll briefly discuss the two main aspects. So, access and cross-ventilation.

35

The Applicant's sun-eye diagrams are provided on the left-hand side of this slide. The Department's assessment of the diagrams concludes that 129 apartments, 68.61%, will likely receive two hours of direct sunlight between 9 a.m. and 3 p.m. at mid-winter, which is marginally less than the recommended 70% by the Apartment Design Guide.

40

We have recognised that meeting the recommended performance criteria in the ADG is difficult, given the site's orientation has a long southwestern frontage to Pacific Highway and the irregular triangular shape of the building. Overall, the Applicant has recently positioned the apartments with different solar orientations, responding to the context of the site, and the Department has therefore accepted the shortfall.

45

As identified in the diagram on the right-hand side, the Applicant has positioned the principal communal open space area on the northern side of the podium, so

that it receives more than 3 hours of solar access between 9 a.m. to 3 p.m. during winter solstice.

5 The Applicant has also submitted a daylight study which demonstrates that most of the under-croft and perimeter communal open space which will receive sufficient daylight. The Department's assessment of this aspect is satisfactory. The Applicant has advised that the central breezeway would be overshadowed during winter solstice and the lower levels will also require artificial lighting.

10 The Department's accepted this scenario as to overshadowing of the breezeway would not significantly affect the amenity of apartments, given they would have alternate primary outlook and access to sunlight. Despite being overshadowed, the breezeway will contribute to natural ventilation and outlook in the circulation areas and provide daylight to circulation areas in all levels.

15 Do the Commissioners have any questions?

20 **MR WRIGHT:** Well, I guess this touches upon, to some extent, the ventilation issue for the apartments, which we haven't got that in our list of issues. Perhaps I'll leave that for the moment.

MS WATSON: Aditi's going to talk to that right now, if that's all right?

25 **MS COOMAR:** So we will move to cross-ventilation and acoustic privacy now.

30 The ADG recommends that 60% of the residential apartments in the first nine storeys be naturally cross-ventilated. The Applicant has advised that 47 out of the 51 apartments in the first nine storeys would be cross-ventilated, out of which 13 are corner apartments. The remaining 34 apartments achieve natural cross-ventilation via windows located above or adjoining the apartment entry doors facing the breezeway through significant wind pressure differences. The Department has reviewed the supporting wind studies in this regard and supports the Applicant's conclusion.

35 The Applicant's acoustic report also demonstrates that acoustic amenity of apartments would not be greatly affected by keeping the breezeway windows open to achieve the cross-ventilation. However, the Department notes that out of the 34 apartments, a large number would be affected by road noise from Pacific Highway and Falcon Street, if the windows are kept open for natural ventilation, as
40 identified in the red outline in the slide.

45 To enable natural ventilation for these noise-affected apartments, while keeping the openings closed, the Applicant has recommended some additional design elements such as low-level windows opening to balconies, or balcony soffit treatments, as well as the trickle ventilation system for some, where outside air is drawn into the apartment and released through a vent in the ceiling. The Department acknowledges that despite the design initiative, some apartments will not be able to achieve the acoustic amenity criteria, doors and windows are opened

due to the site's location at the intersection of major state roads.

5 In this case, reliance on air conditioning at certain times is unavoidable. The alternative ventilation systems would provide an appropriate solution for such apartments. However, the Department does not consider the trickle vent system to be a foolproof or effective alternative natural ventilation system, as it relies on drawing air through a small vent on the wall, and also needs a motorised damper which is mechanically controlled.

10 Consequently, the Department has recommended a condition requiring the final design plans to be amended to include acoustically attenuated vertical louvres to the affected rooms of the apartments fronting Pacific Highway and Falcon Street. This is considered a more appropriate solution for maintaining cross-ventilation and acoustic amenity of these apartments, where other acoustic measures cannot be installed.

Do you have any questions?

20 **MR WRIGHT:** Just in terms of those vertical louvres in those roofs facing either Falcon Street or Pacific Highway, is it the intention that the cross-ventilation would be from the breezeway through a living space, I'm presuming, and then into a bedroom through these vertical louvres? Is that how it would work? I'm just trying to get my head around it.

25 **MR COOMAR:** The louvres are proposed in the rooms which do not have a direct connection to the balcony. So, even if these apartments are facing, are noise-affected and facing the main roads, quite a few (actually majority of the rooms) would actually have connection to the balconies, in which case they can just have operable windows that would open out and the sound be blocked by the
30 balustrades. It's only for the rooms which do not have any balcony connections that we have suggested vertical louvres.

MR WRIGHT: Okay. That requires the air to move across a living space within the apartment and then into that bedroom, I presume, which doesn't have access to
35 the balcony. Is that correct?

MS COOMAR: That's right. That is right.

40 **MR WRIGHT:** And you've got good experience with these vertical louvre systems achieving the acoustic and ventilation requirements in such circumstances? This is a well-worn path that can be implemented?

MS COOMAR: We have relied partially on the Applicant's acoustic report, which has been prepared by a suitably qualified consultant, and they have
45 suggested this. And we have also received expert advice from government architects in this regard.

MR WRIGHT: Okay. Would it be beneficial to have those systems, to have this

vertical louvre system and also the trickle system operating?

5 **MS COOMAR:** As for our discussions with government architects have occurred, the vertical louvres would be a preferred option to the trickle vent system. Yes, it can be used as an addition to the trickle vent system as well.

MR WRIGHT: Sorry Aditi, I missed that. So, the view is it's not necessary to have both systems?

10 **MS COOMAR:** No, both the systems can be used, yes, together. Is that what you're suggesting?

MR WRIGHT: Well, it's a possibility.

15 **MS COOMAR:** There is a possibility, yes.

MR WRIGHT: Okay.

20 **MR MARSHALL:** Well, I think the advice is that the government architect's saying use the louvre system as preference.

MR WRIGHT: Well, you could have the louvre system and the trickle-down system. In theory.

25 **MS COOMAR:** Yes.

MR WRIGHT: Anything else on ventilation – no?

30 **MR MARSHALL:** Thank you.

MR MARTINEZ: Commissioners, I am conscious of the time. We only have less than 10 minutes left. Are there any particular general points that you would like for us to jump straight into, or do you have any particular questions?

35 **MR WRIGHT:** I think we need to deal with parking and overshadowing, that's definitely – so can we step through those?

MR MARTINEZ: Okay, yes.

40 **MS COOMAR:** Okay. I will now take you through traffic and parking. The Department's assessment of the Applicant's traffic report notes that the proposal is not expected to generate high traffic volumes, representing only 2% of the existing total traffic movements through Pacific Highway and Falcon Street intersection.

45 The car share modes, being 20% for residential and 25% for commercial, aligns with the Transport for New South Wales Guide to Traffic Impact Assessment 2024 and would assist in reducing the net traffic generation within the site. The Applicant proposes to implement a Green Travel Plan to ensure that the mode

share targets are achieved. This is also reinforced by a Condition of Consent.

The driveway access to the site is from Alexander Street, which is a local road. The Applicant proposes left-in/left-out driveway arrangement, with a supporting queuing analysis to demonstrate that subject to this arrangement being maintained, no queueing at the nearby Falcon Street/Alexander Street intersection is anticipated. Based on comments from Transport for New South Wales, the Department is satisfied that the proposed development would not result in adverse impacts on the classified road network due to queuing or traffic generation. Conditions of Consent are recommended requiring the Applicant to implement the driveway arrangement.

With regard to car parking, the Applicant initially proposed a total of 324 car parking spaces, including 190 residential and 134 commercial spaces. Following concerns raised by Council, community and the Department's expert advice, the Applicant reduced the commercial car parking spaces from 134 to 20, complying with the North Sydney DCP. The development now incorporates 221 car parking spaces as a result.

We note that the Applicant applies the Housing SEPP non-affordable housing car parking rates across the development, resulting in 190 residential spaces, rather than 174 if a mix of non-affordable and affordable rates were to be applied. The Applicant proposes to quarantine the 16 excess car parking spaces for a period of 15 years, and then release them after the apartments are offered to the market.

The Department considers that the quarantine of car parking spaces is uncertain, it may not be successful and would set an undesirable precedent. In this case, the exceedance of the Housing SEPP's maximum car parking rate by 16 spaces is considered acceptable, as it will provide one car parking space per apartment on average and would not result in detrimental traffic generation. Thank you.

Do you have any questions?

MR MARSHALL: Yes, I do, thank you. I just wondered whether if the traffic consideration has considered the cumulative impact of the many developments that are anticipated to take place in this area? Or whether the assessment has been based just on the existing situation and this development?

MS COOMAR: The traffic assessment has been based, to a large extent, on the 2036 Plan and the analysis that was undertaken at that stage as well. So, the traffic generation, well, when the Applicant has prepared the traffic assessment report, they have considered the scenario that was undertaken at the time of the Planning Proposal, which was guided by the 2036 Plan. And then they have considered a low car share mode and then the net traffic generation has resulted from there.

MR MARSHALL: So, cumulative impacts have been considered, you think?

MS COOMAR: We have to take the question on notice to particularly answer

that point.

MR MARSHALL: I also wonder, given the reduction in car parking, why there isn't a reduction in the number of basements?

5

MS COOMAR: When the Applicant provided us with the amended plans, they showed that the number of adaptable units have been increased from 33 to 48 – I will be able to give you the exact numbers. But because of the increase in the number of adaptable units within the building, the number of car spaces and the adaptable car spaces also are required. That is why they did not have to reduce the number of basements.

10

MR MARSHALL: Sorry, adaptable car parking spaces being for people with disabilities or something? Is that what that ...

15

MS COOMAR: For the adaptable units, that's right.

MR MARSHALL: Okay. Thank you. Okay.

20

MR WRIGHT: Just a question about those 16 additional car spaces for future market apartments. It's not clear to me, is the Department saying that that proposed approach of quarantining those 16 for a further 15 years is actually not feasible? Is that what you're saying?

25

MS COOMAR: The Department considers that it is uncertain because it would be completely reliant on the building management and would not be able to be regulated by the consent.

30

MR WRIGHT: I see, Aditi. So, are you suggesting that those additional 16 car spaces be utilised from day one of operation of the tower?

MS COOMAR: That is what the Department is suggesting, yes.

35

MR WRIGHT: Okay. And is it the case that there's a requirement, should those apartments be sold as market apartments in 15 years' time, is there actually a requirement for each of those to have a car space, or could they be sold without car spaces?

40

MS COOMAR: There is no requirement under the Housing SEPP. But if this was going to be a residential flat building that was approved as solely for the market purposes, there would have been a requirement for one car parking space.

MR WRIGHT: And that's not achieved unless those 16 spaces are provided.

45

MS COOMAR: So, if the non-affordable car parking spaces are applied across the development, considering all apartments to be market, then the 190 car parking spaces is the final number. If the Housing SEPP rates are applied, including non-affordable and affordable housing, then 174 is the number.

MR WRIGHT: Okay. Thank you. Thank you, we must move on to – I think we did overshadowing ...

5 **MR MARTINEZ:** Thank you. Moving onto overshadowing. Council and public submissions raised concerns regarding additional overshadowing impacts on surrounding developments, particularly the heritage conservation areas and North Sydney Girls High School. The Department has mainly considered the impacts due to additional shadows cast with the 30% Housing SEPP bonus above the LEP compliant height, shaded in brown in the diagrams on the slide.

10
15 The Department concludes that most of the areas impacted by the additional uplift are already overshadowed by existing development structures. And despite the additional shadows, the development would maintain 2 hours of solar access to the nearby residential areas, the conservation areas, and North Sydney Girls High School between 9 a.m. to 3 p.m. mid-winter.

Any questions from the Commission?

20 **MR WRIGHT:** I've got a question about that 2-hour benchmark. What is that derived from?

MR MARTINEZ: The ADG.

25 **MR WRIGHT:** So, the ADG applies to overshadowing of adjoining buildings in addition to solar access for the proposed development. Is that correct?

MR MARTINEZ: Yes.

30 **MR WRIGHT:** Okay.

35 **MR MARSHALL:** Can I just ask again about cumulative impacts. I mean, has overshadowing been considered in terms of the future planned development context for this area? Or have the impacts only been considered in relation to this specific development?

40 **MR MARTINEZ:** I don't have a slide for it, however, in the recent Crows Nest TOD package, it has modelled all the potential shadow impacts generated from the maximum potential of the envisaged building massing throughout the area. So, in the next slide over here, the Crows Nest TOD have done a shadow analysis throughout all these buildings. And they've concluded that the overshadowing impacts are acceptable.

45 **MR MARSHALL:** And that the building we're considering is the yellow – which building?

MR MARTINEZ: This one over here with the red star on top.

MR MARSHALL: Okay. Which looks like by far the tallest of these buildings.

MR WRIGHT: Yes, that's the tallest. And just going back to the discussion we had earlier about heights stepping down from those knuckle, those transport
5 knuckles. Does this significantly impact on that step down? Looking at this 3D, it needs to, as Duncan is saying, will it stand up quite prominently above other structures immediately around it, but stepping down.

MR MARTINEZ: The finalisation report of the Crows Nest TOD have
10 considered the transition with the Five Ways site as well. They've also considered that this building to the northeast, directly to the east of the site, the 14-storey, will be up to 14 storeys, to provide transition to the Five Ways building. That is based on the finalisation report.

MR WRIGHT: So, sorry, in finalising the TOD, this proposed 22-storey
15 development is being accounted for. Is that what you're saying?

MR MARTINEZ: Yes. As part of the cumulative impact assessments as well.

MR WRIGHT: Okay. And the 14-storey to the east is a transition structure, you
20 know, heading towards the development site we're talking about. Is that also what you're saying?

MR MARTINEZ: Yes.

MR WRIGHT: Okay. We are actually over time. Is there anything – I'm just
25 looking at the other items here. This is landscaping, communal open space and public domain. Well, if we just quickly look at that slide as well, if you don't mind, and then we're kind of through.

MS COOMAR: We can talk to that. We can talk to that. The communal open
30 space area located at the podium level includes a variety of recreational areas, some of which will be suitable under the shady tower soffit. Social gathering spaces and a viewing deck are also proposed at the northern end fronting Falcon Street for maximising amenity and solar access. The proposal provides 15%
35 canopy coverage, including street trees and an acceptable planting palette with a mix of endemic and indigenous species.

The Applicant has proposed a range of public domain works, including integrated
40 seating, connection of the publicly accessible through-site links within the footpaths, public art, and green walls within the links. Continuous awnings along the frontages, lighting to activate the frontages, and a public arts strategy within the through-site link.

Council did not raise any concerns regarding the proposed public domain works,
45 but recommended retention of two street trees at the corner of Falcon and Pacific Highway. The Department does not consider retention of street trees to be feasible given the extent of excavation. Consequently, conditions requiring appropriate

replacement planting, implementation of a public arts strategy in consultation with the Council, landscaping works, and maintenance of the through-site links, while ensuring 24-hour access.

5 Did you have any questions on the communal open space areas?

MR WRIGHT: I've just got a question about the pedestrian accessways, particularly where it meets the one that moves to the north where it meets Falcon Street. Is there a pedestrian crossing at that point, so – or is it – if you were
10 entering or leaving the site at that point, would you be required to walk up to the Five Ways intersection across to the north?

MS COOMAR: So, the through-site links within this site, they're not meant to be made block crossings which would then directly connect to the pedestrian
15 crossings across Falcon Street. They're more through-site links that would activate the retail frontages that are part of this development, as well as provide shortcuts for the pedestrians. It is anticipated the pedestrians would have to walk to the signalised intersections to cross the main roads.

20 **MR WRIGHT:** Yes, I understand. Thank you. Okay. I think – Duncan, unless you've got a question ...

MS COOMAR: Thank you very much.

25 **MR MARSHALL:** No, let's finish there.

MR WRIGHT: Okay. I think we – I mean, I think the Conditions of Consent, I mean, we'll take that as read, but is there anything you want to draw our attention to particularly in those conditions?
30

MS WATSON: Not particularly. Maybe just the listed on a number of conditions ...

35 **MR MARSHALL:** You're a bit faint, Amy, for some reason.

MS WATSON: There we go. Sorry. Not particularly, but I think maybe just we put on conditions to secure the affordable housing for 15 years, its management and that the occupation certificate for that affordable housing must be at the same time as the remainder of the building, to make sure that that's going to be
40 delivered.

And we've also put on a requirement that the consent is activated or would lapse if it's not activated within two years rather than five years, just to really encourage the take up of affordable and market housing within the accord timeframe.
45

And then we've obviously got a whole range of really detailed prescriptive conditions that have come/been imported from Council, Sydney Metro, Transport of New South Wales, and other agencies. But we'd be happy to take on any

questions at any point before determination if the Commission wanted any clarification on any conditions.

5 **MR WRIGHT:** Thanks, Amy. We'll probably at some stage probably come back to you and have a discussion about conditions as we move through this process, but unless ...

10 **MR MARSHALL:** Just one quick question. Did you consider whether to make the affordable housing in perpetuity instead of just for the 15 years?

15 **MS WATSON:** We have just stuck with the policy, so the policy provides for affordable housing for 15 years, and that is what we have implemented. I know that it does come up in submissions about the affordable housing being for a longer period. But we have not considered that as appropriate here.

MR WRIGHT: Thank you very much, Amy, John and Aditi. Much appreciated.

MS WATSON: Thank you.

20 **MR MARSHALL:** Thank you.

MS COOMAR: Thank you, everyone.

25 **MR MARTINEZ:** Thank you.

>THE MEETING CONCLUDED