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TRANSCRIPT OF PROCEEDINGS

TRANSCRIPT IN CONFIDENCE

O/N H-1062947

INDEPENDENT PLANNING COMMISSION

NSW

RECORD OF MEETING

CHAIR: CHRIS WILSON

PRESTONS INDUSTRIAL ESTATE MOD 5

SSD 7155

SYDNEY

9.32 AM, FRIDAY, 23 AUGUST 2019

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MR C. WILSON: Um, before we begin I would like to acknowledge the traditional owners of the land on which we meet, the Gadigal people. I would also like to pay my respects to their elders, past and present, and to the elders from other committees who may be here today. Welcome to the meeting today. Logos Properties Holding
5 Proprietary Limited, the applicant, is seeking approval to remove and modify existing conditions of consent for the Prestons Industrial Development located at 5 to 35 Yarrunga Street, Prestons in the Liverpool Local Government area. My name is Chris Wilson. I'm the chair of this IPC panel. The other attendees of the meeting is Brad – attendee of the meeting – is Brad James from the Commission Secretariat. In
10 the interests 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.

This meeting is one part of the Commission's decision-making process. It is taking
15 place at a preliminary stage of this process and will form one of several sources of information upon which the Commission will base its decision. It is important for the Commissioner to ask questions of attendees and to clarify issues whenever, ah, we consider it appropriate. If you're asked a question and not in a position to answer it please take it on notice and provide any additional write – information in writing
20 which we will subsequently put on our website. We will now begin. So, Pamela, Jo, we would like, um, just to quickly – for you to quickly go through your assessment and, ah – and, basically, the rationale behind your recommendations.

MS J. BAKOPANOS: Yep. Do you want – who - - -
25

MS P. MORALES: Do you want - - -

MS BAKOPANOS: Well, you can start if you like.

30 MS MORALES: Um - - -

MS BAKOPANOS: I mean, thank you for the opportunity - - -

MS MORALES: Yep.
35

MS BAKOPANOS: - - - firstly, to come up and, um, brief you guys and explain everything that perhaps, ah, wasn't clear or – that we can help.

MR WILSON: Yep. Look, I mean, the focus needs to be obviously on – on the
40 contribution and why – and the costing of the contribution.

MS BAKOPANOS: Yeah.

MR WILSON: And why the matter wasn't resolved during the assessment process
45 and the function of the conditions, in particular the independent QS - - -

MS BAKOPANOS: Mmm.

MR WILSON: - - - and the role of that and what the expectation was of that. If you
5 could – sort of, when you’re going through you could think about answering those –
you know, focusing on that, ah, I’d appreciate it.

MS BAKOPANOS: Yep. Yep.

MS MORALES: Okay.
10

MS BAKOPANOS: Do you want to talk about the earlier QS, that kind of stuff a
bit?

MS MORALES: Yep. Okay. Um, so during the, um, original – I guess, the
15 original assessment process, ah, there were a number of stormwater issues that had
been identified on site - - -

MR WILSON: Mmm.

MS MORALES: - - - that had to be mitigated. Um, I think one of the things that
20 had already been identified was that they needed to, um, update or upgrade the
drainage - - -

MS BAKOPANOS: Mmm.
25

MS MORALES: - - - system on site - - -

MS BAKOPANOS: Mmm.

MS MORALES: - - - from a rural standard to accommodate the development, um,
30 and – and that was already covered under a contributions plan, um, by council.

MS BAKOPANOS: Yep.

MS MORALES: Ah, so during the original assessment they’d already – the
35 applicant had already put together – like, had put forward a drainage strategy that had
somewhat talked to the, um, contributions plan. However, in the interim there had
been – u, I think council had put together a – or had, um, put forward an interim - - -

MS BAKOPANOS: And - - -

MS MORALES: - - - drainage - - -

MS BAKOPANOS: That’s correct. Yes.
45

MS MORALES: - - - strategy, given that I think they had undertaken further
modelling and had found that there had been some, um, it’s like - - -

MS BAKOPANOS: I guess changes - - -

MS MORALES: - - - changes.

5 MS BAKOPANOS: - - - to the - - -

MR WILSON: Yeah, so - - -

MS BAKOPANOS: - - - surrounding area.

10 MR WILSON: - - - from my reading - - -

MS MORALES: Yeah.

15 MR WILSON: - - - of the situation the council commissioned a study in 2014 - - -

MS BAKOPANOS: Yes.

MR WILSON: - - - which my understanding came up with a different solution to
20 what was - - -

MS MORALES: Yes.

MR WILSON: - - - in the contributions plan.

25 MS BAKOPANOS: Yeah.

MS MORALES: Exactly. So - - -

30 MS BAKOPANOS: And the contributions plan wasn't updated to reflect that
interim strategy.

MS MORALES: Yes.

35 MR WILSON: And just – just on that, is there an obligation by – of council to
update their contributions plan and budget? I mean, this is something the
Department probably should answer.

MS BAKOPANOS: Um, I don't personally know that answer but, I mean, I'm
40 certainly – we can try and - - -

MS MORALES: We can

MS BAKOPANOS: - - - make some inquiries with our contributions teams to make
45 – to find out about that.

MS MORALES: Yeah.

MS BAKOPANOS: Yeah.

MS MORALES: We can definitely take that on the notice.

5 MS BAKOPANOS: Yeah. Yep. Yeah. Yeah.

MR WILSON: I guess from our perspective is, if the contribution's plan's there and council has a budget, but then they come up with an interim solution which is - - -

10 MS MORALES: Yeah.

MR WILSON: - - - reflective of what's required on site - - -

MS BAKOPANOS: Mmm.

15

MS MORALES: Yeah.

MR WILSON: - - - what obligation is there then to pay contributions that are reflective either of the contribution's plan which is no longer seen as – or if that's the case, is no longer seen as fit for purpose.

20

MS BAKOPANOS: Yep.

MS MORALES: Mmm.

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MR WILSON: That's – that's – that's, I guess, what we need to answer and, I guess - - -

MS BAKOPANOS: Yeah.

30

MS MORALES: Yeah.

MR WILSON: - - - when you did your assessment - - -

35 MS MORALES: Yep.

MR WILSON: - - - was it obvious, or – that – that a different stormwater and drainage outcome was necessary?

40 MS BAKOPANOS: Yes.

MS MORALES: Yes.

MS BAKOPANOS: Yeah.

45

MS MORALES: At the time it was.

MS BAKOPANOS: Yep. And – and when the original DA was determined.

MS MORALES: Yes.

5 MR WILSON: Yes.

MS BAKOPANOS: Yeah.

MS MORALES: Yes.
10

MS BAKOPANOS: Yeah.

MS MORALES: At the time I think it was.

15 MS BAKOPANOS: And – and council in its submissions, um, never said, “No, we – we don’t support what Logos has put forward.”

MS MORALES: Mmm.

20 MS BAKOPANOS: Um, I think what it had come down to was that ultimately what was the cost of doing those works to actually - - -

MS MORALES: Yep.

25 MS BAKOPANOS: - - - to – to the standard that they basically agreed to, and that’s – and I guess at some point, um, they determined to make a decision on the development consent without finalising the costings. Now - - -

MR WILSON: Yeah.

30 MS BAKOPANOS: - - - I don’t know the – I wasn’t in the team at the time so - - -

MS MORALES: Mmm.

35 MS BAKOPANOS: - - - I don’t know some of that - - -

MR WILSON: That’s okay.

MS BAKOPANOS: - - - decision-making, um - - -
40

MS MORALES: Mmm.

MR WILSON: So I may as well just ask the question. So, um, the independent QS report which was a requirement of those conditions - - -

45 MS BAKOPANOS: Yes.

MR WILSON: And I've already the question, but was that independent QS report the findings of that report - - -

MS MORALES: Mmm.

5

MR WILSON: - - - was the expectation that it would underpin the contributions payable?

10 MS BAKOPANOS: Yep, because it was going to go to a work in kind, um, which would then - - -

MS MORALES: Agreement.

15 MS BAKOPANOS: - - - offset the overall - - -

MS MORALES: Overall.

20 MS BAKOPANOS: - - - contributions that they had to pay because there wasn't just stormwater that they had to pay contributions towards.

MR WILSON: Yeah. I understand there's other contributions but - - -

MS BAKOPANOS: Yeah.

25 MR WILSON: Okay. So there was the expectation then that – that whatever came out of that QS report would – was reflective of the true – true works required - - -

MS BAKOPANOS: Mmm.

30 MR WILSON: - - - in - - -

MS BAKOPANOS: Well – well, we think so, yeah. Yeah.

35 MR WILSON: Okay.

MS BAKOPANOS: Yeah. Yeah. Um - - -

MS MORALES: Mmm.

40 MS BAKOPANOS: So - - -

45 MR WILSON: I'm just trying to understand is there a difference between the works that were done – I understand there's a difference between the works that were done in the contributions - - -

MS BAKOPANOS: Yes.

MR WILSON: - - - plan and what was on site.

MS BAKOPANOS: Yes.

5 MS MORALES: Yep.

MR WILSON: But what was done on site was reflected – it wasn't – it wasn't required as – because of the application as such, but it was works that needed – that – that were required to convey stormwater regardless of what happened on site.

10

MS BAKOPANOS: I think it was both.

MS MORALES: Mmm.

15 MR WILSON: Right.

MS BAKOPANOS: I mean, like, you know – and – and in terms of the final alignment of, you know, where the pipes went suited the needs of – of Logos because of where they - - -

20

MS MORALES: Yep.

MS BAKOPANOS: - - - were putting their infra – their other infrastructure and things like that. So, you know, it was a solution that meet both the needs of the interim drainage strategy and – and - - -

25

MR WILSON: Okay.

MS BAKOPANOS: - - - Logos, um - - -

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MR WILSON: All right.

MS MORALES: Development.

35 MR WILSON: Okay.

MS BAKOPANOS: Yeah.

MR WILSON: Thanks. Sorry, I'm – yeah.

40

MS BAKOPANOS: Yeah.

MR WILSON: I jumped a bit there but - - -

45 MS BAKOPANOS: No, no, that's fine.

MS MORALES: No. No. That's fine.

MR WILSON: - - - just trying to get to the crux of the issue.

MS BAKOPANOS: Yeah, yeah.

5 MS MORALES: Yep.

MS BAKOPANOS: Yeah, that's fine.

MS MORALES: Yep.

10

MS BAKOPANOS: That's fine. Um, yeah, so I guess over time, you know, they had tried to come to an agreement with the council over the work in kind and, you know, it – several had gone - - -

15 MS MORALES: Yep.

MS BAKOPANOS: - - - past and - - -

MS MORALES: Yep.

20

MS BAKOPANOS: - - - you know, as – you know, there's – there's a bit of a timeline that we've gone through from even – was it 2016 did we say - - -

MS MORALES: Um - - -

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MS BAKOPANOS: - - - was the first - - -

MS MORALES: I guess – so they first came to the department in twenty – in February 2017.

30

MS BAKOPANOS: It was, yeah, sorry.

MS MORALES: So I think even before then, throughout 2016, they were obviously discussing it with - - -

35

MS BAKOPANOS: Mmm.

MS MORALES: - - - with council and then - - -

40 MS BAKOPANOS: Mmm.

MS MORALES: - - - obviously, um, in 2017 they came to the Department to resolve - - -

45 MS BAKOPANOS: Yeah.

MS MORALES: - - - the issue - - -

MS BAKOPANOS: Yeah.

MS MORALES: - - - with council.

5 MR WILSON: There – there’s a dispute resolution clause in the – in the - - -

MS MORALES: Yes.

MR WILSON: - - - in the conditions.

10

MS MORALES: That would be condition B10 I believe.

MR WILSON: Right.

15 MS BAKOPANOS: Yeah. Yeah.

MS MORALES: Yes.

MS BAKOPANOS: Um - - -

20

MR WILSON: And that’s – my understanding, that’s when the QS was complete and submitted - - -

MS MORALES: Yes.

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MR WILSON: - - - completed by the applicant.

MS MORALES: Yes.

30 MR WILSON: And submitted to - - -

MS MORALES: And submitted - - -

MS BAKOPANOS: Mmm.

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MS MORALES: - - - to - - -

MR WILSON: Well, it would’ve been provided to council as well - - -

40 MS BAKOPANOS: Yes.

MS MORALES: Yes.

MR WILSON: - - - at the same time.

45

MS BAKOPANOS: Yeah. Yeah. Yeah. Um, and then they used that as their basis to ultimately log – to lodge a modification seeking to amend the condition, and I

guess part of that was saying, “Well, you know, this is the amount of money we’ve paid toward – and – and now built the infrastructure, ah, for the stormwater and it cost us, you know, 1.5 million - - -”

5 MS MORALES: Mmm.

MS BAKOPANOS: “- - - um, and in addition we think that, given we have been trying to negotiate those outcomes, um, that the contribution should be capped at that 2017 rate.”

10

MR WILSON: Yeah. I understand that.

MS MORALES: So - - -

15 MS BAKOPANOS: So then that’s – that’s the second aspect of the - - -

MR WILSON: What - - -

MS BAKOPANOS: - - - discussions.

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MR WILSON: Why weren’t the other contributions paid, because there are contributions for a whole range of things? Why weren’t they just settled?

MS BAKOPANOS: Because they were trying to work out the work in kind - - -

25

MS MORALES: Yep.

MS BAKOPANOS: - - - without paying - - -

30 MR WILSON: Okay.

MS BAKOPANOS: - - - the dollar figure, and – and we certainly had suggested that to Logos. I mean, they knew that that was an – an option available to them, but they obviously for whatever their own reasons chose to not go that pathway. Whether or not they went, “Well, I’m going to pay an amount but it might be too much because I might get more money back.”

35

MS MORALES: Yep.

40 MS BAKOPANOS: “So am I going to get a refund from the council.” I mean, I’m not – I’m

MR WILSON: Yeah.

45 MS MORALES: Yep.

MS BAKOPANOS: That’s not for me to know.

MR WILSON: Okay.

MS BAKOPANOS: Um - - -

5 MR WILSON: All right. Sorry, Pamela. We – we keep, ah, talking - - -

MS MORALES: No, that's fine.

MR WILSON:

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MS MORALES: No, that's fine, um - - -

MR WILSON: So you might want to keep talking to your assessment report and your recommendations.

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MS MORALES: Yeah, no problem. So, I guess, following a – so a MOD had been lodged and, um – I don't know, should I go back

I'm because we chopping around.

20 MR WILSON: Yeah. Sorry. I'm – I'm – I'm to blame a bit for that. I'm sorry, but, ah, just in terms of the recommendations then, I mean - - -

MS MORALES: Yes.

25 MR WILSON: - - - um - - -

MS MORALES: Of the original assessment?

MR WILSON: No, no.

30

MS BAKOPANOS: Oh, of this, this - - -

MS MORALES: No, not this MOD?

35 MR WILSON: Let – let's just go back to your assessment - - -

MS BAKOPANOS: - - - this MOD.

MS MORALES: Okay.

40

MR WILSON: - - - now of - - -

MS BAKOPANOS: Yep.

45 MS MORALES: Yep.

MR WILSON: - - - of the modification.

MS MORALES: Okay. Um, so, yes, a MOD had – ah, so as you’re aware a MOD was lodged back in 2017 and - - -

MR WILSON: Mmm.

5

MS MORALES: - - - throughout that period they had been trying to resolve the – um, the dispute with – with, um - - -

MS BAKOPANOS: Yes.

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MS MORALES: - - - between the applicant and council - - -

MS BAKOPANOS: Mmm.

15

MS MORALES: - - - um, through this modification. One of our recommendations – we’ve looked at both council’s position and, um, the application’s position at length and ultimately, in terms of the drainage works, we’re comfortable with, um, you know, applying that offset amount given that, you know, the additional stormwater works, the drainage works, are of, you know, a material public benefit.

20

MS BAKOPANOS: That’s correct, yes.

MS MORALES: Um, because, you know, it was required to convey - - -

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MR WILSON: Yep.

MS MORALES: - - - that high hazard stormwater, um, you know, through – through the site. So, um, we were comfortable in that sense of – of, um, applying that offset, um, and – and, um, deleting those relevant conditions that relate to the, um – the - - -

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MS BAKOPANOS: The QS report - - -

MS MORALES: - - - work in - - -

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MS BAKOPANOS: - - - and the - - -

MS MORALES: The QS - - -

40

MS BAKOPANOS: - - - work in kind.

MS MORALES: The work in kind - - -

MS BAKOPANOS: Yep.

45

MS MORALES: - - - conditions.

MR WILSON: Yeah. Council's position, ah, is that, ah, they should be able to determine this through works in kind process.

MS MORALES: Mmm

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MR WILSON: Um, but, ah, I guess, um, in lieu of that we have – we are now – basically, putting that aside I guess - - -

MS BAKOPANOS: Mmm.

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MR WILSON: - - - in terms of this process and - - -

MS BAKOPANOS: Mmm.

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MR WILSON: - - - the consent authority's powers other than council - - -

MS MORALES: Mmm.

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MR WILSON: - - - to – we've been asked to make that – to – to levy the appropriate contributions outside - - -

MS MORALES: Mmm.

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MR WILSON: - - - that process beyond that process.

MS BAKOPANOS: Yep.

MS MORALES: Mmm.

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MR WILSON: Yep. Okay.

MS MORALES: Yep.

MS BAKOPANOS: Yep.

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MS MORALES: Yep.

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MS BAKOPANOS: And – and council's position had been throughout the, um, consultation period that they couldn't offer any more than the 970,000 which was the amount that had CPI increased to that March - - -

MR WILSON: Yeah.

45

MS BAKOPANOS: - - - 2017.

MS MORALES: Mmm.

MS BAKOPANOS: So that's all they were, I guess, offering.

MS MORALES: Yep.

5 MS BAKOPANOS: Um, and, yeah, so our assessment took the view that the material public benefit of that one and a half million dollar spend was reasonable, but Logos had said, "We'll, take a fifty-fifty on - - -"

MS MORALES: Yep.

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MS BAKOPANOS: "- - - that," and - - -

MR WILSON: Yep.

15 MS BAKOPANOS: - - - we took the view that that was a reasonable outcome to try and get a resolution on – on this process.

MR WILSON: So, I mean, I'll ask council, but I guess council's not in a position to offer anything additional because it's in – you know, because for all intents and purposes they're – it looks like they're, I guess, giving away their own rate payer's money against their own plans.

20

MS MORALES: Mmm.

25 MS BAKOPANOS: Mmm.

MS MORALES: Mmm.

MR WILSON: Um, yep. Okay. Um, just in terms of the, um, ah, indexation then.

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MS BAKOPANOS: Yep.

MS MORALES: Mmm.

35 MR WILSON: Do you want to explain that a little bit to me.

MS MORALES: Okay. Um, so we've considered, ah, the applicant's request to cap the, um, indexation – the CPI rates at 2017 - - -

40 MS BAKOPANOS: Yep.

MS MORALES: - - - 2017 rates, and that's obviously when the, um – when the modification application was lodged with - - -

45 MS BAKOPANOS: Yes.

MS MORALES: - - - um, with – with – with us. Um, we, obviously because of the length of time that has passed, you know, we think it's reasonable to apply - - -

MS BAKOPANOS: Mmm.

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MS MORALES: - - - ah, or to freeze the rates at – at - - -

MS BAKOPANOS: Yes.

10 MS MORALES: - - - 2017 given that throughout this whole time we've been, you know, trying to resolve - - -

MS BAKOPANOS: Yep.

15 MS MORALES: - - - this dispute.

MS BAKOPANOS: Yep.

MS MORALES: Um - - -

20

MS BAKOPANOS: Yeah.

MS MORALES: Yep.

25 MR WILSON: Right.

MS BAKOPANOS: That's – I mean, that's probably the – the fair assessment.

MS MORALES:

30

MS BAKOPANOS: They lodged it seeking a resolution that took us longer than we, I guess - - -

MS MORALES: Anticipated.

35

MS BAKOPANOS: - - - they would've - - -

MS MORALES: Yeah.

40 MS BAKOPANOS: - - - anticipated. And so we felt it was a reasonable decision to – to, um, not penalise Logos because it took us a long time to make a decision, because they had lodged it when the – those rates would've applied so - - -

MS MORALES: Yes.

45

MS BAKOPANOS: - - - so felt that was a reasonable approach.

MR WILSON: Why has it taken two years?

MS BAKOPANOS: Because, I guess, we've been trying to negotiate between the council or with them and we've been - - -

5

MS MORALES: Yep.

MS BAKOPANOS: - - - trying to listen to both parties, and I guess it's just taken time to liaise between the parties - - -

10

MS MORALES: Yep.

MS BAKOPANOS: - - - unfortunately.

15 MR WILSON: Okay. So the – but the application was lodged – when was the application lodged, because 2017 was a dispute resolution under the old consent.

MS MORALES: Yes.

20 MS BAKOPANOS: They lodged not far after, wasn't it.

MR WILSON: Okay.

MS MORALES: No. No. I don't know - - -

25

MS BAKOPANOS: I – I wasn't - - -

MS MORALES: - - - the exact date but, um - - -

30 MR WILSON: That's all right. It must be - - -

MS MORALES: July - - -

MR WILSON: Yeah.

35

MS MORALES: Yeah, around - - -

MR WILSON: July last year.

40 MS MORALES: - - - July 2017 they had - - -

MR WILSON: Okay.

MS MORALES: - - - initially lodged, um, a MOD. Um, it was MOD 2 at the time.

45

MR WILSON: Yeah, okay.

MS BAKOPANOS: Yeah.

MS MORALES: And then obviously, because it just took so long, they decided - - -

5 MS BAKOPANOS:

MS MORALES: - - - to just split the MOD - - -

MS BAKOPANOS: Yes, it was - - -

10 MS MORALES: - - - and then it became - - -

MS BAKOPANOS: Yep.

15 MS MORALES: - - - MOD 3 and then MOD – MOD 5.

MR WILSON: Was – was there - - -

MS BAKOPANOS: So - - -

20 MR WILSON: - - - an understanding that – I mean, council agreed to the QS report in a sense? They agreed to the terms – the – the – the brief?

MS MORALES: I guess they didn't make any - - -

25 MR WILSON: So has council to - - -

MS MORALES: They didn't make it clear - - -

30 MR WILSON: - - - you - - -

MS MORALES: - - - whether or not they accepted it.

MR WILSON: Has council disputed the outcomes of the QS report?

35 MS MORALES: I don't believe they – they have. It's not clear what their position was.

MS BAKOPANOS: Yeah.

40 MR WILSON: Right. Okay. We can ask them today.

MS MORALES: Yeah.

45 MS BAKOPANOS: Yeah.

MR WILSON: So it was definitely the Department's view that that QS report – if the QS report said X, Y, Z then that's what the contributions should be payable?

5 MS BAKOPANOS: The – the – I – the work in kind - - -

MS MORALES: Yep.

MS BAKOPANOS: - - - component, yes.

10 MR WILSON: Yeah.

MS BAKOPANOS: Yeah, yeah.

MR WILSON: Okay.

15 MS BAKOPANOS: Yes.

MR WILSON: All right.

20 MS BAKOPANOS: Um - - -

MR WILSON: Notwithstanding the contributions plan might say something else.

MS MORALES: Yes.

25 MR WILSON: Okay.

MS BAKOPANOS: Yep.

30 MS MORALES: Yep.

MS BAKOPANOS: Because the stormwater solution had moved beyond what the section 94 plan had originally, ah, accounted for.

35 MR WILSON: Okay.

MS BAKOPANOS: So - - -

40 MR WILSON: All right. Well, I think that's probably a – do you have anything - - -

MR B. JAMES: I don't have any questions.

45 MR WILSON: Is there anything else you want to add?

MS BAKOPANOS: I don't - - -

MS MORALES: No.

MS BAKOPANOS: No. I don't think so, um - - -

5 MR WILSON: Okay. Well, I think that's it, unless there's, ah, anything else you want to add, um, that's enough for me at this stage.

MS MORALES: Okay.

10 MR WILSON: Thanks.

MS MORALES: Thanks.

MS BAKOPANOS: No - - -

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MR WILSON: Thank you for coming.

MS BAKOPANOS: No - - -

20 MS MORALES: No worries.

MS BAKOPANOS: - - - problemo.

25 **MATTER ADJOURNED at 9.49 am ACCORDINGLY**