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O/N H-986798

**INDEPENDENT PLANNING COMMISSION**

**MEETING WITH DEPARTMENT OF PLANNING AND ENVIRONMENT**

**RE: MOOREBANK PRECINCT EAST STAGE 2**

**PANEL:** **STEVE O'CONNOR**  
**PROF SNOW BARLOW**

**ASSISTING PANEL:** **ROBERT BISLEY**

**DEPARTMENT OF  
PLANNING AND  
ENVIRONMENT:** **DAVID GAINSFORD**  
**KAREN HARRAGON**  
**JASMINE TRANCOR**

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

**DATE:** **9.29 AM, THURSDAY, 31 JANUARY 2019**

MR S. O'CONNOR: Okay. Thanks, Laura. Good morning and welcome. Before we begin I would like acknowledge the traditional owners of the land on which we meet and pay my respects to their elders past, present and emerging. Welcome to the meeting today on the proposal to subdivide Moorebank Precinct East within the  
5 Liverpool Local Government area. The proposal for subdivision forms part of an existing development application SSD 7628 which sought approval for the warehousing, freight village and infrastructure associated with the Moorebank Precinct East Intermodal Terminal. The Commission granted partial consent to SSD 7628 in January 2018 excluding the subdivision of the site due to insufficient  
10 information. My name is Steve O'Connor and I am the Chair of this Commission.

Joining me on the panel is Snow Barlow of my left. The other attendee today is Robert Bisley on my right from the Commission Secretariat who is assisting the Commission on this project. In the interests of openness and transparency and to  
15 ensure the full capture of information today's meeting is being recorded and a full transcript will be produced and made available on the Commission's website. The meeting is one part of the Commission's process of determining this development application. It is taking place at a preliminary stage of the process and will form one of several sources of information upon which the Commission will base its final  
20 decision.

It is important for the Commissioners to ask questions of attendees and to clarify issues whenever we consider it 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  
25 any additional information in writing which we will then put on our website. So we are now ready to begin. So in order would you like to just start off with some opening statement.

MS K. HARRAGON: Yes. I'm going to represent the department today. So good morning. My name is Karen Harragon and I'm the Director for social and other  
30 infrastructural assessment team at the department. Today I'm going to present an overview of the department's assessment of the subdivision component of the SSD 7628, the subdivision element being the remaining undetermined component of SSD 7628 for the development of warehousing and a freight village component of stage 2  
35 of the Moorebank Precinct East Intermodal Development. Okay. So - - -

MR D. GAINSFORD: Just, perhaps, before Karen goes on. So also present is David Gainsford. I'm the Executive Director, Priority Projects, at the Department of Planning, and Jasmine, for the record.  
40

MS J. TRANCOR: I'm Jasmine Trancor, student planner at the Department of Planning.

MR O'CONNOR: Thank you.  
45

MS HARRAGON: Thank you. As I mentioned earlier, the stage 2 project, .... speaking, is an application seeking approval for the construction of warehousing and a freight village to be operated as part of the Moorebank Precinct East Intermodal Terminal, the terminal being MPE, stage 1. The application was the second and final  
5 stage of development under MPE concept approval which is MP 10 underscore 0193. The development being stage 1 and stage 2 are both currently under construction.

The subdivision component sought development consent to subdivide the overall MPE site into separate lots so they can be separately and individually leased  
10 components of the warehousing based on the fact that more than – a lease more than five years would be required. Our understanding is that the Conveyancing Act and the Registrar General’s Office give guidance on leases that are greater than five years and seek there to be certainty around what land the nature of these leases are relating to and give guidance on providing separate lot and DPs for them.

15 The MPE stage 2 application was exhibited in 2016. Seven public authority’s submissions were received and 197 submissions were received from the general public. Four of these general submissions were in relation to concerns regarding subdivision so I’m just going to quickly run through what they are. These included  
20 whether the subdivision would allow for further development to occur that would not be the subject of the overall consent that was being granted by the consent authority at the time; whether the subdivision would result in further impacts on the ecological and environmental aspects of the area which was a significant concern for the community at that time.

25 I’m now going to speak more directly about the department’s recommendations in relation to stage 2 to provide some background as to why the partial consent occurred when issued by the Commission. On 20 November 2017 the department submitted its recommendations to the Commission on MPE stage 2. At the same time the  
30 department also submitted its recommendations for related modification to MPE concept approval known as MOD 2. The primary purpose of that modification was also to reflect the intention to undertake subdivision of the land but also included some other references such as the inclusion of some fill being placed on the land and a number of other minor modifications. The department concluded that the overall  
35 MPE stage 2 development was approvable, however, there were a number of concerns with the documentation relating to the subdivision element.

These concerns included there being insufficient information to address the department’s concerns regarding the possibility that the subdivision would facilitate  
40 fragmentation of the precinct and thereby reducing the requirement to use the warehousing and the distribution facilities only as activities connected to the freight associated with the rail intermodal. The department’s concerns also included the fact that the subdivision plan put in front of the consent authority included an unapproved east-west northern access way which was shown on the plan at that time. The  
45 department also raised concerns regarding the need to ensure an holistic, whole-of-the-precinct operational management approach to a number of environmental factors.

I will quickly just run through those and they included biodiversity matters, bushfire hazards, water quality and quantity, water recycling, broad ESD principles, visual impacts, light spill, materials handling on the site, noise, landscaping, fencing and signage. As a result of this the department recommended a series of conditions including pre-subdivision requirements to address these concerns. This included the need for an updated final subdivision plan to be submitted deleting the unapproved access way and also requiring all the easements to be shown on the plan. In addition to that, the department also sought the need for the preparation and approval of an overarching operation environmental management plan to cover the environmental factors that I mentioned previously.

In relation to the concept mod the department also made similar considerations regarding the inclusion of the subdivision but provided recommendations regarding the future assessment requirements include provisions relating to an updated subdivision plan, details about the entities responsible for the management of the site and an overarching environmental management plan. So I'm now going to talk about the actual partial consent matter and how it came to be in relation to the Commission's findings.

In reviewing the application and having regard to the department's report and the recommendations that the department have put forward for the stage 2 application, the Commission wrote twice to the applicant regarding similar concerns it shared regarding the subdivision element to which the applicant responded. In considering the applicant's response the Commission concluded it needed further information to enable determination of the proposal for subdivision. At the Commission's request legal advice was sought by the department in relation to whether the Commission had the power to determine part of the application without refusing the subdivision component of the application and this legal advice was furnished to the Commission.

The Commission's determination – on 31 January the Commission adopted the department's recommendations regarding the fears in relation to the modification for the concept proposal. On 31 January the Commission then granted partial consent to MPE stage 2. The consent explicitly does not include approval for subdivision. However, in granting the partial approval the Commission also noted that it had not refused the proposal for subdivision. So in relation to the application before the Commission at this time, in August 2018 the applicant provided a subdivision and ..... report to the department. The report provided an updated draft plan of subdivision, indicative easements, an overlay of the site, site's common land, access roads and services over the plan's subdivision.

It also included a deletion of the east-west northern access way which had been shown on the earlier plan. It also provided very detailed guidance on how the single entity known as QUBE would manage the entire site works and how it would also have a binding management agreement with those tenants – subtenants within the site that would be using part of the subdivision allotments created. The applicant also seeks the potential to stage the subdivision and provided indicative plans of how this staging could occur. The updated plans were provided on 12 December and on

19 December and these form part of the package that has been provided to the Commission. The department submitted its recommendations to the Commission on 21 December.

5 DPE considers that the subdivision proposal is approvable. The department also considers that while the subdivision certificate can be staged under the Act, the recommended conditions of consent would require that certain obligations be finalised prior to any form of subdivision such as the site – the overarching site operation environmental management plan. The department recommends conditions  
10 accordingly based on these conclusions it has reached.

MR GAINSFORD: The only thing I would perhaps add to what Karen has said is that we've also received some advice that a consent for this subdivision should be treated as a separate consent document.

15

MR O'CONNOR: Right.

MR GAINSFORD: So rather than it being, effectively, amendments to the existing consent for Stage 2, actually treated as – so that's why you've got recommended  
20 conditions in a stand-alone consent form.

MR O'CONNOR: That was going to be one of my questions, so that's good.

MR GAINSFORD: Yes. Okay. Yes. And so whilst some of the generic conditions  
25 that are in that consent that we've recommended to the Commission don't necessarily lend themselves to activities associated with subdivision. The advice again from our legal team is that that should be part of any consent that we're recommending to you. So that's just a bit of a history to that.

30 MR O'CONNOR: So just to be clear, your legal advice is you can lodge one development application, but you can get multiple development consents.

MR GAINSFORD: I believe that's the case. Yes.

35 MS HARRAGON: And, in fact, if you note under your instrument heading, you actually see a reference to a clause in the Act.

MR O'CONNOR: Yes.

40 MS HARRAGON: And it's actually – I think it's the Act and not the Reg. It's actually that reference which is a clause that speaks about the ability of the consent authority to issue partial approvals. And, in fact, you will find under the earlier instrument that the Commission issued was a similar reference to a clause and it was the old reference under the old numbering. But both of those make a very clear  
45 reference to this being a partial consent, so - - -

MR O'CONNOR: Right.

MR GAINSFORD: So I think in summary in terms of the issues that Karen, sort of, run through there is that the concerns that we had at the time that previously we were recommending the condition – sorry, to the Commission, the stage 2 application when the Commission – before the Commission decided not to give approval to that subdivision. We feel that those issues really have been addressed in the revised application that has come through to us. So from our point of view, we don't feel that there's outstanding – any outstanding significant environmental concerns associated with what has been put forward too.

MS HARRAGON: And there's also a very clear commitment in terms of the nature of the legal relationship that will exist in terms of each of the hierarchies operating on the site. So throughout the whole assessment of the projects are sitting under this major projects approval, that the concept was a dependency upon all of the operations on the whole site to be related to the intermodal. So fundamental to every single report that we've done so far is to go back to that as the primary basis of the nature of this whole intermodal site and so this subdivision also speaks to that in terms of it being part and related to the intermodal and even to the basis that, say, for instance, the freight village, there's an obligation for that freight village to be a freight village that is related to the intermodal and, you know, for that purpose shouldn't be able to be subdivided or to be a, you know, potential retail facility, so – and that's consistent in our conditioning set, but also consistent with the applicant's commitments, that they've given in quite a lot of detail in terms of how that legal framework will operate and that has been prepared in association with Freehills. So that's actually quite a technical detail of the conveyancing obligations that will sit under their leases.

MR O'CONNOR: Okay. Anything else just by way of opening?

MR GAINSFORD: I mean, obviously we didn't go through the history of the Moorebank Intermodal facility and – but we do have plans here that we can talk to in terms of the relationship between Moorebank Precinct East and Precinct West if that's of benefit to you, either here or at another stage. There's obviously, a very complex site. There's a lot of activity that's going on. As Karen mentioned, there are parts of the site at the moment that are under significant construction works. There are parts of the site that are not far from opening – some of the initial works. And we've got active applications that are with us at the moment as well for Moorebank Precinct West - - -

MS HARRAGON: West. Yes.

MR GAINSFORD: - - - and modification for Moorebank Precinct East as well. So there's a lot of activity happening on this site, both in a physical sense and then in a planning approval sense as well.

MR O'CONNOR: I guess I'm fortunate. I've been - - -

MR GAINSFORD: Yes.

MR O'CONNOR: - - - on panels for most - - -

MR GAINSFORD: Yes.

5 MR O'CONNOR: - - - of those applications, so I've got a good understanding of the history.

PROF S. BARLOW: I don't. Yes.

10 MR O'CONNOR: Snow is obviously new to the site, so - - -

MS HARRAGON: I've got a – we can talk to just how this precinct sits in relation to the greater Moorebank Precinct. The plan is actually quite easy to talk you through about the other applications, particularly given that they're going to be coming to the Commission quite soon anyway, so - - -

MR O'CONNOR: Why don't you do that for Snow's benefit?

20 PROF BARLOW: That would be helpful. Thank you.

MS HARRAGON: Yes.

MR GAINSFORD: Yes.

25 MS HARRAGON: So this actually forms part of that development pack that the Commission is actually considering at the moment. But it's actually also a good plan that shows you overall developments. So this is the Georges River here. This site - - -

30 MR GAINSFORD: North being up this way.

MS HARRAGON: Yes. This site to the top of the page is known as Moorebank Precinct West, also identified and has a consent at the moment for a concept approval for an intermodal with warehouse developments. At the current time, the department has an application before it to consider a modification to the concept, but also the first stage of the delivery of the warehouses. The activities that are occurring on the site at the moment primarily relate to some remediation activities and when that work is completed, we would expect should the Commission grant approval for the Stage 2 works, which will be the intermodal that will come in through here - - -

40

MR GAINSFORD: A new roll-in.

MS HARRAGON: - - - the warehouse - - -

45 MR GAINSFORD: Yes.

MS HARRAGON: - - - that that work would be then able to occur.

PROF BARLOW: Will that be connected to the intermodal that happened on East?

MS HARRAGON: That what we might do is just step one back in terms of how both the intermodals connect to the rail system. So the application that's under  
5 construction at the moment for MPE, where the terminal is actually located here is connected by a rail link and - - -

MR O'CONNOR: Is that under construction, the rail link?

10 MR GAINSFORD: Yes.

MS HARRAGON: It is.

MR GAINSFORD: It's well advanced.

15 MS HARRAGON: Yes. It actually cross the Georges River.

MR GAINSFORD: With a new bridge over the Georges River. Yes.

20 MS HARRAGON: It runs along the existing freight line.

MR GAINSFORD: No. So it runs parallel to the East West Railway Line.

MS HARRAGON: Yes. And - - -

25 MR GAINSFORD: Sorry; East Hills Railway Line.

PROF BARLOW: East Hills Railway Line.

30 MR GAINSFORD: Yes.

MS HARRAGON: Which is – yes. And actually crosses the river and actually skirts along the edge of the Moorebank waste facility.

35 MR GAINSFORD: Correct.

PROF BARLOW: So it is a separate bridge across the river?

MR GAINSFORD: That's correct.

40 MS HARRAGON: It is a separate bridge.

MR GAINSFORD: And it connects off to the southern city freight line.

45 PROF BARLOW: Yes. All right.



MS HARRAGON: Yes. And it just sits outside of the ..... corridor that has been identified under strategic documents that facilitates a – and it's held by Strategic Lens, whatever the name of that organisation is at the moment, to allow pedestrian movements and it actually connects to links to trails through this area.

5 PROF BARLOW: Yes.

MS HARRAGON: So this project will rely upon that railway line that's currently being constructed - - -

10 PROF BARLOW: Yes.

MS HARRAGON: - - - and at about this point, we will divert from there.

15 MR GAINSFORD: The new spur.

MS HARRAGON: Yes. And so there will be a separate spur that will come on the opposite side to Moorebank Avenue and go up into here. The applications before us at the moment include some modifications to the number of lines that will separate and which there will be - - -

20 MR GAINSFORD: A site .....

MS HARRAGON: - - - a typical intermodal facilities, overhead cranes, so that you can have a number of trains actually being serviced there at the same time. So there's also originally some differentiation between the key purposes of each of this terminal, one was an interstate and one was a Port Botany shuttle. This is the Port Botany shuttle at this time. The application that's currently approved for the concept was to provide a similar shuttle and also an interstate one. The modification that we've got in front of us would do to change the key delivery of that.

25 MR GAINSFORD: For Moorebank .....

30 PROF BARLOW: But does East – is it able to be an interstate shuttle as well as the Port Botany shuttle?

35 MR GAINSFORD: I think the sidings for Moorebank Precinct East means the length of the sidings means that there is some constriction on how long the train is going to be, so - - -

40 PROF BARLOW: Yes.

MR GAINSFORD: - - - typically the shuttle services are shorter trains than what the interstate trains would be.

45 PROF BARLOW: It's the interstate trains. Okay.

MR GAINSFORD: So I think there is some restriction on - - -

PROF BARLOW: Some difference. Yes.

5 MS HARRAGON: And there's also some very strong conditions of approval which  
were originally recommended to the Commission and then the Commission also put  
forward as part of their approval, but then were referred as part of a court case. So it  
might be worth mentioning just so that you're aware of the background. Following  
the Commission's approval of this project, the terminal project known as Stage 1,  
10 there was a court case challenge from the residence against intermodal development,  
the acronym which is RAID.

So they were successful in court in terms of seeking the application of additional  
conditions of consent. Primarily, the legal challenge was in relation to the finding of  
15 an extinct plant within this area that's known as the Boot Land, Hibbertia fumana  
was known to not occur and was extinct up until the time it was identified on this  
site. At that time, the documentation for the application had been completed and was  
with us. So the court case challenge was in regards to that - - -

20 PROF BARLOW: Plant.

MS HARRAGON: - - - not being known to the Commission at that time.

PROF BARLOW: Okay. But that has been resolved, hasn't it?  
25

MS HARRAGON: It has been resolved.

MR GAINSFORD: It has been resolved. Yes.

30 MS HARRAGON: There was definitely a lot of work done by all parties, including  
the community in terms of the conditions set, so the applicant, the department and  
the RAID representatives in terms of what those conditions sets were. But part of  
that also revisited the noise around the impacts from the terminal and a more  
appropriate methodology for that how noise can be managed. And I guess why I  
35 make reference to that is that it also had regard to the ability of this applicant to  
manage the rail stock that comes to this facility because it is the shuttle.

MR GAINSFORD: Port shuttle. Yes.

40 MS HARRAGON: So they actually owned – or have direct relationships with that  
rail rolling stock because there is concern regarding the community's consideration  
- - -

MR GAINSFORD: Sort of tightness of the kerbs.  
45

MS HARRAGON: - - - tightness of the kerbs. So there's very strict conditions  
around managing that, recording that, being responsive to what else will.

MR GAINSFORD: Having high quality rolling stock that accesses the site. So if you were to be out there today and you were having a look at activity on the site, so this is Moorebank Avenue that runs down the middle - - -

5 PROF BARLOW: Yes.

MR GAINSFORD: - - - of the site, what you would see is a very advanced construction works for the new rail sidings on Moorebank Precinct East; a large warehouse, so the first of the warehouses that they're looking to build on Moorebank  
10 Precinct East is well advanced; all the demolition works, effectively, have now occurred on other parts of Moorebank Precinct East associated with their Stage 2 application. As Karen mentioned before, Moorebank Precinct West has had much more modest activity - - -

15 MS HARRAGON: Yes.

MR GAINSFORD: - - - in accordance with its Stage 1 approval which has really allowed them to do some clearing.

20 MR O'CONNOR: Site preparation.

MR GAINSFORD: Some site preparation.

MR O'CONNOR: Yes.  
25

MR GAINSFORD: Some remediation work they've been doing on the site and the provision of sedimentation ponds and various other activities. So that's, sort of, where the development is up to.

30 PROF BARLOW: Could I ask a question. I think it doesn't really pertain to what we're going to decide today, but - - -

MR GAINSFORD: Yes.

35 PROF BARLOW: - - - I was just interested, is why was it necessary to bring such an enormous amount of fill, you know, 1.6 million cubic metres? Is it flood prone or something and they wanted to build it up?

MR GAINSFORD: It – I mean, the original applications that came through to us at  
40 the concept stage and at Stage 1 did not envisage bringing in any fill and, I guess, the commentary in the assessments at the time were that fill wasn't required for the site because the actual developable land areas did sit outside the floodplain. If, again – if and when you're out on site, you will see that the site itself is very flat. It gently, sort of, undulates, I think, from north to south, although it's, you know, different in a few  
45 different areas, but it's a very level sort of site. I guess, part of the Stage 2 applications were the first time that we saw this importation of fill as part of the application. The justification that Qube has given to us for why they're doing that is

mainly on the basis of, I guess, both raising the site somewhat to get it further out of the floodplain, but also, I guess, you know - - -

5 MR O'CONNOR: To facilitate the drainage of the site. It was so flat.

MR GAINSFORD: To facilitate the drainage and flattening, you know, some of the undulations that they've got. So, I mean, look, I think from the department's point of view, there's obviously a lot of fill that has been produced from a number of telling projects at the moment, so there might have been an opportunistic component of bringing - - -

10 MR O'CONNOR: Yes.

MR GAINSFORD: - - - the fill out to the site as well.

15 PROF BARLOW: Yes. Yes. No. That's fine.

MS HARRAGON: And probably also mindful to understand the scale of the site. This plan is really deceptive. When we come before the Commission next time, we will bring the plan that's an overlay of this estate on top of Sydney CBD because you actually see that Circular Quay and Central Station basically - - -

MR GAINSFORD: Fit within the site.

25 MS HARRAGON: - - - fit within this envelope. So it's a huge site. This looks like a very simple little industrial site .....

PROF BARLOW: No, no, but when you look - - -

30 MS HARRAGON: Yes.

PROF BARLOW: - - - 80 hectares or if you want ..... 200 acres is not a small area.

MR O'CONNOR: And that's just the precinct east.

35 PROF BARLOW: That's right. That's the precinct east.

MR O'CONNOR: That's not the entire site.

40 PROF BARLOW: Yes.

MS HARRAGON: Yes.

PROF BARLOW: The entire site must run to - - -

45 MR O'CONNOR: Hundreds.

PROF BARLOW: - - - you know, hundreds of hectares.

MS HARRAGON: Yes. And I think probably we need also to talk to you, while we've got the opportunity, about the roadworks that are part of a DPA that's  
5 currently being negotiated with Roads and Maritime Services in relation to the  
uplifting of Moorebank Avenue but also the widening of Moorebank Avenue so that  
it facilitates almost basically independent access, left and right turn lanes to both of  
the warehouse intermodal facilities. That's obviously key to both the stage 2  
application that was previously considered here. You will see conditions of consent  
10 - - -

PROF BARLOW: Yes.

MS HARRAGON: - - - that already relate to the start of that work. The matter that  
15 will come back before the Commission for stage 2 for MPW is very much related  
also to that work as part of the considerations. The BPA will not only relate to that  
Moorebank Avenue but is also the planning agreement under which there will be a  
payment for contributions for upgrade of other regional road network requirements to  
meet the increased demand for vehicle movements from this project. So we will  
20 speak to you more regarding that when we're back before you.

PROF BARLOW: Thank you, Karen.

MR O'CONNOR: Okay. Can I ask what feedback you've had from council in  
25 relation to this subdivision that we're looking at? What has been their response?

MS HARRAGON: So we showed them the conditions set. They did not have any  
particularly strong concerns in the first instance other than those that were shared  
with us. The plan that was part of the original DA would not be your typical final  
30 detailed subdivision plan so we've not received any concerns from the council now  
that this new updated detail has been made available to them.

MR O'CONNOR: Yes. Okay.

35 MR R. BISLEY: As part of the process endorsing the final subdivision plan will  
you go and seek council's feedback in that process or will it just be the Secretary  
signing off?

MS HARRAGON: At this stage only the council – sorry, only us.  
40

MR BISLEY: Okay.

MS HARRAGON: But we're happy to talk to the council as to whether they see  
45 themselves as having an appropriate role. Clearly with subdivision certification  
that's now outsourced to certifiers so we wouldn't actually be required to go back  
before the council for endorsement before it being finally made but we're certainly  
comfortable to speak to them about that. Just to also make reference to you –

Moorebank Avenue actually is not a road that's either an RMS road or a local road; it's actually owned by the Federal and Commonwealth Government so it actually isn't covered by the – you know, that – that would probably be an element if it wasn't otherwise – if it was a local road that I probably would want to just seek some  
5 guidance from council regarding consistency with their approach to registering a plan of subdivision.

What I can say to you more broadly though is that we've worked significantly with the council in terms of having a consistent approach to water quality and water  
10 quantity management on both the sides to ensure that what we're achieving in terms of discharge from each of these points – not just from MPE but from MPW – would be the standard in which they would have considered the matter should they have been the consent authority. So we've not only consulted with them, met with them, but we've also shared the condition sets with them and considered their specific  
15 policy around that guidance.

PROF BARLOW: And what's that – through ponds before it goes into Georges River?

20 MS HARRAGON: There is a current piped easement through here.

PROF BARLOW: Yes.

MS HARRAGON: So the site is currently serviced by that. It's actually in quite a  
25 bit of disrepair at the moment so as part of the requirements that we imposed on that that we ensure that - - -

PROF BARLOW: .....

30 MS HARRAGON: Yes. We ensured that that was at an appropriate standard. So we have put in place for both the MPE stage 2 that the Commission has already been a consent for was of quite rigorous requirement for – for ..... a sensitive design - - -

PROF BARLOW: .....

35 MR O'CONNOR: Yes.

MS HARRAGON: - - - and we've actually had our own independent consultant  
40 assisting us with that in terms of what that would look like and we're still working with the applicant in terms of the outcome of those final subdivision designs. We would like to see some integrated open basins that replicate a natural environment to as great an extent as we can achieve. The MPW application before us at the moment does have a series of OSDs along the back of the site which are quite deep ponds so we're aiming to work with the applicant to improve the design of those.

45 PROF BARLOW: Thank you. Sorry, Steve.

MR O'CONNOR: No, that's fine, Snow. So I've got a question which I think you might want to take on notice - - -

MR GAINSFORD: Yes.

5

MR O'CONNOR: - - - but I will just explain what the question is because I got quite confused trying to understand the land the subject of this application. So when I go to the department's assessment report on page 5 there's project summary and it says that it's a Torrens Title subdivision of Lot 1 DP 1048263 into five lots so I'm thinking when I read that it's one lot that's being subdivided. Then I go to aspects report and it tells me that the site comprises 67 hectares – this is on page 5 of their report – 67 hectares and it comprises lot 1 in a completely – or in the same DP as the department's report but a lot 2 in a completely different DP. Then I go to page 9 of their report and they have got a table there that shows there are four lots which are all part of the site and one of the lots that they had previously mentioned isn't mentioned. Then I go to the draft instrument of approval - - -

10  
15

MR GAINSFORD: Yes.

MR O'CONNOR: - - - and it mentions four separate lots but again different lots. So I just really need to be clear on what the land is that we're subdividing here so we get it all right when we're issuing our instrument of determination.

20

MR GAINSFORD: Okay.

25

MR O'CONNOR: The – I would like to understand more about the staged subdivision approach that we're looking at. Can you – and we will be talking to the proponent - - -

MR GAINSFORD: Yes.

30

MR O'CONNOR: - - - later today so if – that's something you – they can more comfortably deal with, by all means, but we would like to understand it.

MS HARRAGON: Well we – we believe we've got a good understanding of what the applicant was looking for.

35

MR O'CONNOR: Yes.

MS HARRAGON: And that's supported by their detailed subdivision plans where they've presented this particular document as what the final plan would look like. So there would be a separate – and they've referred to it as the terminal lot, being lot 35, and they also referred to these large lots as being 23 – which would be a warehouse lot, 22 would be a warehouse lot, 21 would be a warehouse lot and it's actually a unique allotment that wraps up beside this lot which is 24 which actually represents the building that's under construction at the moment. So in effect lot 24 would sit well within the footprint of the building that's under construction.

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We've imposed conditions that referred to that being finalised by a surveyor before this is registered. Now, this reference to a lot 3 – our position is that it does not form part of our application, unclear why they've shown it on this plan. That's an existing lot in an existing DP. In the same way that – it actually has no relationship as far as we're concerned with this – our consideration of this site and really should be one that's reflected with that hatched – or that – the other references on their plan. So I guess that's just in terms of this is a final one.

If you were to go to the set of plans that they've provided to the department this would be the only interim stage that we would be – would be – we've been made known to us, in which case again if we exclude that lot 3B, an allotment which has no change, as part of our development considerations where basically in effect the interim staging would be the terminal on its own allotment, the building known as the target building on its own allotment and the residual site being 26.

And our clear understanding from the applicant is that the intention is that not all of the warehouses that have had consent would actually be leased out. It's expected that the applicant itself will manage and own – well, sorry, will manage these sites themselves and for that reason there is a chance that they may never need to proceed to that final subdivision because the remainder of the warehouses would all be contained in that one lot. So that's the only stage that we would anticipate there being - - -

MR GAINSFORD: So ultimately it's to give them some flexibility in terms of what their arrangements might be for leasing. So is that – is that as we understand it?

MS HARRAGON: And potentially if they were to come back and decide to stage the delivery of the warehouses.

MR GAINSFORD: Right.

MR O'CONNOR: Well, thanks for clarifying it. So it's really just a two staged subdivision. It creates - - -

MS HARRAGON: Yes.

MR O'CONNOR: - - - three lots in the first stage - - -

MR GAINSFORD: Yes.

MR O'CONNOR: - - - and then an additional two lots eventually.

MS HARRAGON: Yes.

MR O'CONNOR: So you had the plan there, Karen. I got confused trying to read how lot 24 sits with lot 21. There seems to be a distinct boundary between lot 21 and



then there's a bit of no-man's land and then there's lot 24. What lot does the land that surrounds lot 24 belong to?

5 MS HARRAGON: We believe it's 21 in that - - -

MR GAINSFORD: I think that might be worth clarifying because I think the actual hard line that you can see there on lot 24 might be just the building footprint.

10 MR O'CONNOR: Yes.

MS HARRAGON: And not the - - -

MR O'CONNOR: That's what I was - - -

15 MR GAINSFORD: And not necessarily the lot footprint so - - -

MR O'CONNOR: - - - thinking.

20 MR GAINSFORD: So I think that's probably worth clarifying with QUBE.

MS HARRAGON: Which – yes, which is actually quite difficult to determine based on just the lot area that is shown, whether in fact it's that building footprint or the whole site.

25 MR O'CONNOR: Yes. Yes.

MS HARRAGON: Yes.

30 MR O'CONNOR: Yes, because it just seems a very unusual lot if it's lot - - -

MR GAINSFORD: Yes.

MR O'CONNOR: - - - 24 is the building footprint - - -

35 MR GAINSFORD: There wouldn't - - -

MR O'CONNOR: - - - as opposed to the cadastral boundary that is shown there.

40 MS HARRAGON: Yes.

MR O'CONNOR: So we need to clarify that - - -

MR GAINSFORD: Yes.

45 MR O'CONNOR: - - - and be clearer. And can you talk us through how the site is going to be managed and from the angle – like, there will be common facilities in this. There will be drainage, there will be roads, there will be pathways that are

common and they're proposed to be managed, as I understand, by an individual or an entity over time. Now, if this was a strata title subdivision it would be the body corporate looking after those common areas.

5 MS HARRAGON: Yes.

MR O'CONNOR: And if it was a community title subdivision it would be a community association but they haven't gone down either of those paths. They've gone down the Torrens Title subdivision.

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MR GAINSFORD: Yes.

MR O'CONNOR: And I guess the concern that I have is that what's the long term guarantee that that entity that they establish will always be there to maintain those roads and those drains, etcetera.

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MS HARRAGON: So the – these similar concerns were raised when we were assessing stage 2. So the applicant at that time put forward some clear evidence that this subdivision was only to facilitate a lease and that the individual cutting up of the site into separate Torrens Title for sale was not the intended purpose of the subdivision and our consideration of the Conveyancing Act also was supporting their position on that, that because of that long term lease requirement you do need to have a separate lot reference to it - - -

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25 MR O'CONNOR: Yes.

MS HARRAGON: - - - so we understood that that was a legitimate purpose for putting forward that. Notwithstanding that, we also were aware that we've now created a Torrens Title allotment - - -

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MR O'CONNOR: And it can be sold to anyone - - -

PROF BARLOW: Yes.

35 MR O'CONNOR: - - - notwithstanding what their intention - - -

MS HARRAGON: Yes. So Stage 2 actually has a requirement in which I will take on notice to make a reference to what the condition number is which actually says that that you can't subdivide the land. That, ultimately, this is an intermodal precinct and intermodal development and that you can't, for instance, sell off the freight village as a separate building separate to the intermodal development. So we will get back to you with further details on that.

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PROF BARLOW: So just some clarification - - -

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MS HARRAGON: Yes.

PROF BARLOW: Okay. You can sell a freight village, but could you sell of any one of those warehouses on the other lots?

5 MS HARRAGON: I will confirm the wording of the condition that we imposed on Stage 2, and I think probably what useful to the Commission would be now for me to take you to the supporting documents that are sitting in the applicant's package that they've put in front of the department for this particular application and that you now get to consider. I will just grab that back.

10 MR O'CONNOR: Just while you're looking for that, Karen – David, can you point out where that freight village sits on this plan of subdivision?

MR BISLEY: Right-hand side of lot 3.

15 MS HARRAGON: So if you actually look at those ones there - - -

MR O'CONNOR: Yes.

20 MS HARRAGON: - - - in yellow - - -

MR O'CONNOR: Yes.

PROF BARLOW: Yes.

25 MR GAINSFORD: Which unfortunately is oriented the wrong way around.

MR O'CONNOR: I know. That's where it annoys the hell out of me.

30 PROF BARLOW: I know. It annoys the hell – so - - -

MR O'CONNOR: Yes.

PROF BARLOW: - - - sometimes north is to the left.

35 MR GAINSFORD: It's just sitting there.

PROF BARLOW: Sometimes north is to the right.

40 MR O'CONNOR: No. I know it sits there on that plan, but where does it sit on this plan?

MR GAINSFORD: Yes. Well, one would assume it sits in there.

45 MR O'CONNOR: So it's part of lot 24 - - -

MR GAINSFORD: Assuming that is part of lot 24. Yes.

MR O'CONNOR: - - - we think.

MR GAINSFORD: - - - which is I guess - - -

5 MR O'CONNOR: Yes.

MR GAINSFORD: - - - worth clarifying as you mentioned before.

MR O'CONNOR: Yes.

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PROF BARLOW: Why did they – why would they do that? Sometimes east – sort of, north is to the right. Sometimes north is to the left.

15 MR O'CONNOR: They flip backwards and forwards and it is very frustrating trying to follow.

MR GAINSFORD: Sometimes – having worked in the rail industry before, sometimes the rail engineers flip plans around all the time based on whether it's actually pointing towards the city or whether it's pointing towards country. I know  
20 it's very frustrating.

MR O'CONNOR: I guess while Karen is looking for that, the concern - - -

25 MR GAINSFORD: Yes.

MR O'CONNOR: - - - that we would have is that whilst their intention might be purely - - -

30 MR GAINSFORD: Yes.

MR O'CONNOR: - - - create this subdivision for leasing purposes, once it's created it can be sold to anyone, you know. That decision can be reversed and it's just the guarantees that are there for the long-term maintenance of those - - -

35 MR GAINSFORD: Yes.

MR O'CONNOR: - - - common bits of infrastructure that we have a concern about.

40 MR GAINSFORD: Yes. Look, that's certainly a legitimate concern and a concern of ours all the way along in terms of the subdivision application is to make sure that the conditions that relate to what we think are really important objectives for the – both the Moorebank Precinct East and Precinct West are able to be delivered. You know, not just now, but into the long-term. So I share those concerns.

45 MR O'CONNOR: And was there any mention previously about Moorebank Avenue being a Commonwealth piece of land? Was there any proposal or intention to transfer that to RMS or to the council?

MR GAINSFORD: So - - -

MR O'CONNOR: Or was it just going to remain Commonwealth?

5 MR GAINSFORD: So there are ongoing discussions as part of this VPA process around, if you like, the vesting of control of – so whether – I'm not sure the ownership necessarily will transfer, but the control, if you like, particularly when the road is being upgraded into the State and into RMS, so that RMS can be satisfied that the works are being done in accordance with, you know, its requirements.

10 PROF BARLOW: And then they will assume maintenance responsibilities for that road.

15 MR GAINSFORD: Look, that's – and that's something – obviously when we come back to you and talk to you about Moorebank Precinct West, we will need to talk to you in some detail about that. I'm not across some of that detail, but there has been a lot of discussion as part of the application and the VPA around how that process is going to work with the roads.

20 PROF BARLOW: Yes.

MR GAINSFORD: Which has complicated it because of the Commonwealth ownership aspects.

25 MR O'CONNOR: Yes. Yes. I was aware of that.

MS HARRAGON: So in the actual subdivision ancillary report which forms the package for this subdivision application, they go through a whole section on precinct environmental management which also then starts to make reference to the relationship between all their entities. So what we probably need to also explain is that – David, I will get you to correct me if I'm wrong – this land is actually not owned by Qube other than through a 99 year lease.

35 PROF BARLOW: Yes. Lease. Yes.

MS HARRAGON: So - - -

PROF BARLOW: It's Commonwealth land, isn't it?

40 MS HARRAGON: - - - in that respect - - -

MR GAINSFORD: That's correct.

45 MS HARRAGON: - - - it's not – at the moment in terms of that legal agreement, it's not open for it to be sold as a lot, as a ..... lot. They then provide some precinct management agreement principles and they then – this then speaks to the relationship about tenancies and subleased documents. Inasmuch as you're asking me the

question, what stands in the way of their stopping the sale of these sites, this document which we would, in principle, be approving as part of the package of the DA, it makes references to the purposes of these allotments being created for subleases only.

5

MR O'CONNOR: Yes.

MS HARRAGON: The principles of this 99 year lease under which Qube operates would also make it quite challenging to actually sell the sites off as well. And then I will speak further about the details of what's sitting in Stage 2 in terms of that restriction on the individual sale of them.

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MR GAINSFORD: Yes. So we will get back to you in terms of what we believe are the requirements in the existing consent, but perhaps I would encourage you also to raise that issue with Qube.

15

MR O'CONNOR: We will.

MR GAINSFORD: Yes.

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MR O'CONNOR: Yes. Thank you. Snow, did you have any questions or things we haven't covered or that you had an interest in?

PROF BARLOW: Just one follow-up question. There was the east west walkway which disappeared.

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MS HARRAGON: From the river?

PROF BARLOW: No. From across the site, I think, wasn't the - - -

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MS HARRAGON: Are we talking about the MPE site or - - -

PROF BARLOW: MP East. Yes. Wasn't the - as part of going to this next step, wasn't there a walkway that disappeared or - - -

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MS HARRAGON: So we've got really strong conditions of consent regarding the delivery of pedestrian networks through the site.

PROF BARLOW: Yes.

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MS HARRAGON: We are certainly pursuing vigorously the requirement for people to be able to walk between parts of the building to the freight village under shaded pathways. So we refer to them in our report as state works in which we're putting the responsibility back onto Qube to manage those and so that's part of a suite of documents that are currently before the department at the moment and are being commented on by the government architect where this meandering path will go

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through the estate. Now, you might make reference to the fact that there is some details in the plan of subdivision - - -

PROF BARLOW: Yes.

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MS HARRAGON: - - - so such as driveways and a number of other elements. But there's still a management plan and a detailed landscape plan which will require the delivery of these facilities as part of the Stage 2 works.

10 PROF BARLOW: Okay. And is that approved, the management plan?

MR GAINSFORD: So for Moorebank Precinct East, we're - - -

PROF BARLOW: East.

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MR GAINSFORD: Yes. We're still – there are elements in the management plan that has been approved which has allowed them to commence the works that they've been doing for the new warehouse, so that we've, effectively, been dealing with some of those requirements through a stated process, but there are elements that we're still working through. So – yes. At this very minute, there are plans that are in front of the department which we're considering for future warehousing that they want to do.

25 MS HARRAGON: So the condition sets that we've put forward to the Commission for this particular consent, and I will take you to A6 in schedule 2 of the condition set for this subdivision approval, make the requirement for the pedestrian paths to actually be clearly identified on the subdivision plan before it is actually registered, so at - - -

30 PROF BARLOW: That's what I was really referring to.

MS HARRAGON: Yes. So why we obviously can't see them on the plan at the moment is that the actual location of those footpaths is an ongoing piece of work that we are seeking to get finalisation at the moment and we actually wanted there to be something that was delivering a good outcome for Western Sydney in terms of it being an enjoyable place for employees to be, so we've actually set some very high standard for cycle paths, pedestrian paths. The government architect is heavily involved in planning of that.

40 MR GAINSFORD: Shady areas. Yes.

MS HARRAGON: Either heat island – urban heat island effects, how this development could reduce that for this particular area which we will also be pursuing in the MPW. So there's a series of plans that are before the government architect at the moment detailing that.

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MR O'CONNOR: Yes. I was impressed with the work that the department did on the heat island effect in the applications that came previously before the Commission.

5 MS HARRAGON: And I think we will probably be a bit more able to pursue those for MPW because there's now, even in that period of time since we first reported to the Commission on this, a lot more agencies are representing that as what clear  
10 deliveries are for achieving good outcomes for urban heat island. At the time, we were very much going it alone in terms of our own knowledge and understanding and investigation about what other key elements of urban heat island. So we're  
15 looking to have a better articulated set about how you deliver the MPW. However, we're very comfortable and confident that the conditions on MPE Stage 2 are still going to achieve a good outcome.

15 MR O'CONNOR: Thank you. Rob, did you have any questions you wanted to raise?

MR BISLEY: No. Nothing else.

20 MR O'CONNOR: Look, I think that's probably all we can ask of you this morning. There are a couple of things we would like you to follow up - - -

MS HARRAGON: Yes.

25 MR O'CONNOR: - - - if you don't mind.

MR GAINSFORD: Yes.

30 MR O'CONNOR: And we might even have further questions after we've spoken with the proponent.

MR GAINSFORD: Sure.

35 MR O'CONNOR: Things might arise out of that that we want clarification on from the department, so - - -

MS HARRAGON: Okay.

MR GAINSFORD: Sure.

40 MR O'CONNOR: I just let you know that.

MS HARRAGON: Okay. Thank you.

45 MR O'CONNOR: Thanks for your time.

MR GAINSFORD: No, no.



MR O'CONNOR: Thanks for coming in this morning.

MR GAINSFORD: Thank you.

5 MR O'CONNOR: Thanks. All right.

PROF BARLOW: Thank you.

10 **RECORDING CONCLUDED**

**[10.18 am]**