



**AUSCRIPT AUSTRALASIA PTY LIMITED**

ACN 110 028 825

**T:** 1800 AUSCRIPT (1800 287 274)

**E:** [clientservices@auscript.com.au](mailto:clientservices@auscript.com.au)

**W:** [www.auscript.com.au](http://www.auscript.com.au)

**TRANSCRIPT OF PROCEEDINGS**

---

TRANSCRIPT IN CONFIDENCE

---

O/N H-1431048

**INDEPENDENT PLANNING COMMISSION**

**MEETING WITH DEPARTMENT OF PLANNING, INDUSTRY AND ENVIRONMENT**

**RE: MOOREBANK INTERMODAL PRECINCT WEST – STAGE 3**

**PANEL:** **DIANNE LEESON (Chair)**  
**PROF RICHARD MACKAY AM**

**ASSISTING PANEL:** **BRAD JAMES**

**DEPARTMENT OF PLANNING, INDUSTRY AND ENVIRONMENT:** **ERICA VAN DEN HONERT**  
**NATHAN HEATH**

**LOCATION:** **VIA VIDEO CONFERENCE**

**DATE:** **8.03 AM, TUESDAY, 30 MARCH 2021**

MS D. LEESON: Good morning.

MS E. VAN DEN HONERT: Good morning.

5 MS LEESON: It's Erica and Nathan?

MR N. HEATH: Good morning.

MS LEESON: Good morning, Nathan.

10

MR HEATH: Good morning.

MS LEESON: Thanks for your time this morning. We will hop straight into it. So  
good morning. Before we begin, I would like to acknowledge the traditional owners  
15 of the land from which we virtually meet today and pay my respects to their elders  
past, present and emerging. Welcome to the meeting today to discuss the Moorebank  
Intermodal Precinct West Stage 3 Project, SSD 10431, currently before the  
Commission for determination. The stage 3 project seeks approval for the staged  
subdivision of the Moorebank Precinct West site into nine allotments, the  
20 importation of approximately 280,000 cubic metres of unconsolidated clean fill for  
compaction up to final land level, and approximately 540,000 cubic metres of  
structural fill for warehouse pad completion, the establishment and use of a  
temporary construction work compound area in the southern portion of the site – of  
the MPW site and associated ancillary works.

25

My name is Dianne Leeson. I'm the chair of this Commission panel. I am joined by  
my fellow Commissioner Richard Mackay. We are also joined by Brad James from  
the Office of the Independent Planning Commission, and I would like to introduce  
Erica van den Honert and Nathan Heath from the Department of Planning, Industry  
30 and Environment. 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. This  
meeting is one part of the Commission's consideration of this matter and will form  
one of several sources of information upon which the Commission will base its  
35 determination.

It is important for the Commissioners to ask questions of attendees and to clarify  
issues whenever it's considered appropriate. If you're asked a question and are not  
in a position to answer, please feel free to take the question on notice and provide  
40 any additional information in writing which we will then put up on our website. I  
request that all members here today introduce themselves before speaking for the  
first time, and for all members to ensure that they do not speak over the top of each  
other, to ensure accuracy of the transcript. We will now begin. So welcome again,  
and thank you. You have forwarded a presentation to us that we will ask you to go  
45 through in a minute, and we did send you an agenda. We think, on balance, it's  
probably simpler if we let you go through the presentation, given that it's a relatively

few number of slides, and then we can come back to any questions as we need to. I think we're going to share – share screen on that one.

MR HEATH: Yes. So I will share my screen now.

5

MS LEESON: Thank you, Nathan. If you can share the screen, then – and take us through the presentation, then we will come back to any residual questions and issues that we might have.

10 MR HEATH: Okay. Great. So can everyone see that screen now?

MS LEESON: We can, thanks, Nathan.

MR HEATH: Okay. Great.

15

MS LEESON: And just before we begin, is there anything that you or Erica want to say before we commence today? Any particular issues?

20 MR HEATH: So we had structured our presentation to, I guess, after the key issues section to introduce subdivision and fill first, as they were the key issues for the – for the application. I guess if the Commission wanted us to dive straight into the questions that were raised, then we can do that. Otherwise, we will just proceed with the presentation as we have got.

25 MS LEESON: I think if you can proceed with the presentation that you have, and before you start, if in your presentation you can make one thing really clear for us.

MR HEATH: Yes.

30 MS LEESON: At around stage 3 – so a stage 3 in a previous time was intended to be the warehousing and operations of the southern precinct of the site. Now stage 3 is really about bringing additional fill in, about subdivision approval and about a works compound in that southern area.

35 MR HEATH: Correct.

MS LEESON: Can you clarify though that stage 3, particularly in terms of the importation and compaction of the fill, that that additional volume is for the entire site, not just for the southern portion? It's just that initial clarity.

40

MR HEATH: Yes, it's – it's – yes, it's for the entire site. Yes, it's additional for the entire site.

MS LEESON: Okay. No, that's fine. Thank you. Okay.

45

MR HEATH: No problem.

MS LEESON: Over to you.

MR HEATH: Thank you.

5 MS VAN DEN HONERT: I will then start. Good morning, Commissioners.  
Thanks for having us to speak to you today about the Moorebank Intermodal Precinct  
West Stage 3. My name is Erica van den Honert. I am the executive director of  
infrastructure assessments at the Department of Planning, Industry and Environment,  
and I'm here with my colleague Nathan Heath to outline the Department's approach  
10 to the assessment of the Moorebank Precinct West, or MPW Stage 3 development  
application. As you have said, Dianne, the application seeks approval for the staged  
subdivision of the MPW site into nine allotments, the importation of approximately  
280,000 square – cubic metres of unconsolidated clean fill for compaction up to final  
land level, and approximately 540,000 cubic metres of structural fill for warehouse  
15 pad completion, the establishment and use of a temporary construction works  
compound area in the southern portion of the site, and associated ancillary works,  
including temporary and permanent access roads, earth works, fencing, utilities  
installation and connections, storm water and drainage infrastructure, signage and  
landscaping.

20 The proposal is focused on ongoing construction and site preparation works on the  
MPW site. The only operational components proposed under this application of  
subdivision of the MPW site and operation of the permanent perimeter road.  
Construction and operation of warehousing and distribution facilities for the southern  
25 portion of the MPW site would be subject to future planning approval. The proposal  
has been referred to the Commission due to an objection made by Liverpool City  
Council during the exhibition of the EIS. The Department exhibited the application  
between 30 April and 27 May 2020, and overall, there were 40 submissions received  
during the exhibition period, including 25 individual public submissions that were all  
30 objections, four submissions from special interest groups that were all objections,  
and 11 submissions from public authorities including one objection from council.

The Department's key issues relate to subdivision, importation of fill material,  
construction noise and out-of-ours construction works, and construction traffic and  
35 access. We will address the Commission's discussion points alongside the relevant  
key issues. So to assist today, we have got this presentation which you see in front of  
you, a copy of which we have made available to yourselves. I thought now that I  
will hand over to Nathan and ask him to give you a snapshot of the site and the  
development, and as always, we're happy to take questions throughout.

40

MS LEESON: Thank you.

MR HEATH: Great. Thank you, Erica, and good morning, everyone. I'm Nathan  
Heath and I'm a planning officer within the social and infrastructure assessments  
45 team at the Department. So this proposal is the third stage of development under the  
Moorebank Precinct West Concept Proposal, and the application has been lodged by  
Aspect Environmental on behalf of Sydney Intermodal Terminal Alliance as Qube

Holdings. So as shown on the regional context map, the MPW site is located on the western site of Moorebank Avenue, Moorebank, and forms the western part of the Moorebank Intermodal Precinct. The Moorebank Precinct East, or MPE site, also forms part of the precinct and is located on the eastern side of Moorebank Avenue, and is constructed and operated under a separate concept approval and two-stage consents.

The precinct as a whole, including both MPW and MPE, covers an area of about 300 hectares. The current image on screen shows the locality of the MPW site within the broader context of the Moorebank Precinct. The MPW site is shown within the blue-dashed outline, the MPE site within the orange outline, and the rail corridor linking to both sites is shown within the purple outline. The closest residential receivers to the site are approximately 200 metres to the west in Casula, as shown in the light pink shading to the left. The biodiversity conservation area, which is established under the MPW concept proposal, runs along the eastern bank of the Georges River and is shown in green check.

Development of the site is being pursued under a concept consent issued by the Commission in 2016 and modified by the Commission in 2019, and that modification was linked to the MPW Stage 2 DA. Works are under way on the site under development consent for MPW Stage 1 early works and MPW stage 2. It's important to note that most of the MPW Stage 1 early works are now complete on the site. MPW Stage 2 was approved by the Commission in November 2019 and includes the construction and operation of an intermodal terminal facility to support 500,000 TEUs per annum, operation of the rail link to the southern Sydney freight line, construction and operation of 215,000 square metres of warehousing in the northern portion of the site only, road upgrades at the intersection of Moorebank Avenue and Anzac Road, and the importation of 1.6 million cubic metres of fill to raise the site on average between two to three metres.

The MPW Stage 2 consent has been modified on one occasion, recently in December 2020, to allow construction of two high bay warehouses, move the boundary of the stage 2 warehouse area further south, amend operational noise limits and to allow dangerous goods to be stored onsite. So importantly, no clearing is permitted to occur under stage 3, and BDAR waivers were granted for the development in March 2020. The Department has recommended a number of conditions to ensure that no vegetation is removed is removed under this proposal. However, clearing on the site is covered under the MPW Stage 1 and Stage 2 consents. This next figure shows the original MPW Stage 2 precinct layout at the top, and then at the bottom, the amended precinct layout plan as modified in December 2020.

So as a result of the approved new warehouse locations, the applicant revised the footprint of the construction compound area under this proposal to exclude the ..... and warehouse area from the compound area plan. The applicant asserts that the changed operational boundary and precinct layout proposed as part of those modifications does not represent a subdivision boundary, and that partial coverage of a lot by warehousing aligns with MPE, where multiple tenants and common areas are

located on a single lot. Therefore, no change to the proposed plan of subdivision to accommodate the changed precinct layout is proposed. So this next figure just provides an overview of the compound plan under this proposal, and it's included as appendix 1, I believe, to the consent.

5

The applicant has an ability to be able to slightly amend these plans if the project is determined, and we have recommended a condition that final construction layout plans are provided to the Secretary prior to construction commencing, and I guess that was just a result of the conditions negotiations and the applicant wanted a bit of flexibility with – if any of these compound areas were to change slightly. And this next – this next overlay just shows the subdivision boundaries and where they – where they sit with the estate works for the northern portion of the site and also the – the compounds for the southern portion of the site. As you can see, that lot 7 area was amended under that – under the stage 2 modification, and that ate into a – a little bit of a chunk of the compound area. However, there were no laydown or material stockpile areas proposed there anyway, so – and no change to the subdivision boundary. Sorry, I will just go back. So I will hand back to Erica now who will run through the key issues.

20 MS LEESON: Yes, thank you.

MS VAN DEN HONERT: Thanks, Nathan. Before I do that, does anybody have any questions?

25 MS LEESON: There was just one quick question in relation to subdivision. I think you said that it's intended that there be multiple tenants within the one lot. Is that – was that correct?

MR HEATH: Yes.

30

MS LEESON: Yes.

MR HEATH: Potentially.

35 MS LEESON: Okay. And Moorebank East – is it currently – how is it currently subdivided?

MR HEATH: So that follows a similar structure for the staged subdivision. They have progressed quite a few of those plans of subdivision to the Secretary. It has also been modified on one occasion recently, so it has definitely progressed. In regards to an absolute sort of accurate, up-to-date status, we can get back to you with that if required.

45 MS LEESON: I would be interested to understand how the – that site is subdivided and operated, because it, I think, will give some information in terms of how this site is intended to be operated.

MR HEATH: Sure. It is consistent with MPE and that staged subdivision is a key component. As tenants come online, the applicant proposes to submit plans of subdivision to the Secretary. And there is a subdivision staging plan we have proposed as part of the conditions of this consent, which will definitely provide the structure for that staging of subdivision.

MS LEESON: Thank you.

MS VAN DEN HONERT: All right. I will now run through our assessment of the key issues, starting with subdivision of the site. The proposal involves a subdivision of existing lot 1, DP 1197707, into nine allotments, which range from 12.28 hectares to 44.82 hectares. The applicant proposes to subdivide MPW site into four main functional areas, these being six lots, which are lots 5 to 10 inclusive, to be used for future warehousing and distribution facilities. Lot 11 to be used primarily as a biodiversity conservation area, inclusive of the development perimeter road and storm water management functions, lot 12 to be used as an interstate freight terminal and then lot 13 to be used as part of the rail connection.

The six lots for warehousing and distribution facilities would enable long-term leasing of buildings and tenanting of individual warehouses as part of the MPW development. The duration of subleasing those lots is likely to be greater than five years. The applicant proposes to subdivide the site in a staged manner to allow subdivision of individual lots to take place progressively as demand for future warehousing arises. The approach to staging subdivision complies with the MPW consent approval, including condition E26, and is consistent with the subdivision of the adjacent MPE Stage 2 development, where the Commission's consent allows the submission of final layout plans which identify relevant estate plans on the site to be deferred to post-approval.

Final layout plans for this proposal are still pending but could be appropriately resolved through post-approval submissions, similar to what is in place for MPW Stage 2. The Department considers that staged subdivision is acceptable if the applicant maintains its commitment to providing all relevant estate works before subdivision can occur, and we have recommended conditions to that effect, including the requirement to prepare a subdivision staging plan. The subdivision staging plan must identify each stage of the subdivision and the relevant estate works for each stage, and must be approved by the Planning Secretary prior to the issue of the first subdivision certificate.

Next slide. Thanks. The clause 4.6 variation request. The applicant submits that all proposed lots contravene the minimum subdivision lot size development standard on the MPE site – MPW site, excuse me. Under clause 4.1 of the Liverpool LEP, the minimum subdivision lot size for the site is currently 120 hectares, as shown by the lot size map on the screen. The applicant submitted a clause 4.6 variation request to vary the minimum lot size development standard on the site, and their position is that compliance with the standard is unreasonable, noting that the site is 189.4 hectares,

and the minimum subdivision lot size requirement is 120, and therefore, no subdivision could take place without the variation.

5 The applicant also asserts that compliance with the standard is unnecessary, as the  
tenanting arrangements and the conditions of consent would provide additional  
security to avoid fragmentation of the site and maintaining adequate site maintenance  
and management. The Department considers the contravention of the minimum  
subdivision lot size to allow the proposed subdivision of the MPW site is acceptable,  
10 and has recommended conditions of consent to confirm the applicant's commitments  
to managing the site holistically, similar to the conditions the Commission imposed  
on MPE Stage 2. The Department has considered key concerns from council,  
including safeguarding the holistic management of the site and preventing  
fragmentation and separation of distinct warehouse groups into individual lots across  
the site.

15 We consider the recommended conditions will cover off on council's concerns. Like  
with MPE Stage 2, the legal framework governing the MPW site would support the  
delivery of required development components and management and maintenance  
during operation. The applicant advises that SIMTA and Qube would retain  
20 responsibility for all estate works on the MPW site, including maintenance of access  
roads, pedestrian paths, landscaping, lighting of common areas and provision for  
emergency services, including firefighting. The Department has therefore  
recommended a condition requiring that prior to the issue of any subdivision  
certificate, the applicant must submit a precinct operational environmental  
25 management plan to the Planning Secretary for approval that covers these aspects.  
Are there any questions on any of that before I proceed to the importation of fill  
material?

30 MS LEESON: I just have one question, if I might, Erica. In council's submission,  
they were of the view that a planning proposal should have been prepared, including  
economic impact statement, rather than a consent around a subdivision approval.  
Does the Department have a view on whether a planning proposal approach would  
have been appropriate?

35 MR HEATH: So initially, early on, prior to the lodgement of the application and  
during the – prior to – prior to the SEARs being issued, there were discussions with  
the applicant and we were definitely trying to push the applicant towards a planning  
proposal pathway. They didn't want to do that so we proceeded with a clause 4.6  
variation request, which was what they lodged to us.

40 MS LEESON: So can you outline a little more what the applicant's reasoning for  
not pursuing a planning proposal path was.

45 MR HEATH: I think it mainly was around a timing issue, that the planning proposal  
may take too long.

MS LEESON: Richard - - -



MS VAN DEN HONERT: Yes, I think I was just confirming that and getting back to you on – on that answer.

MR HEATH: Yes.

5

MS LEESON: Thank you.

MR HEATH: We can definitely provide, yes, additional information around that.

10 MS LEESON: Thank you. Richard, did you have a question?

PROF R. MACKAY: Yes, thank you, Di. I'm just interested again – in the council's submission, the point is made that the zoning and the lot size is intended to reflect integrated operations, and, look, noting Erica's advice, when I look at conditions – proposed conditions D12, D13 and 14, and the proposed precinct operational and environmental management plan, it seems to me that they go to management of estate works as opposed to integrated operations of the site. I mean, is the Department able to perhaps make some comments on how the question of holistic operations might be addressed? Because it seems to me that that is the substantive objection – the substantive merits objection to the impact of the subdivision.

MR HEATH: Sure. So D12, that does require the applicant to prepare a precinct OEMP, and we believe that that covers off on a number of issues that council raised in regards to fragmentation of the site. So it requires that a nominated single entity takes responsibility for the site, and that is SIMTA as Qube Holdings. And they are also required to prescribe the management and maintenance measures applicable to estate works across the whole precinct. I guess in regards to how we have addressed holistic management of the site, we're happy to provide a more detailed response to that on notice as well.

PROF MACKAY: Well, I think that would be helpful, because with respect to the subdivision, that does seem to be the major objection that – that allowing the - - -

35 MR HEATH: Yes.

PROF MACKAY: you know, I mean, it's a very substantial non-compliance in terms of the numbers, but in fact, when one looks behind that, it's actually about the question of holistic operation. So I think a more detailed response on notice would be appreciated, thank you.

MR HEATH: No problem. Thank you.

MS LEESON: Thanks, Richard. Thanks, Erica.

45

MS VAN DEN HONERT: All right. We might then move on to the importation of fill material, if you can just move to the next slide, please, if there's another one. So

the applicant seeks approval to import approximately 280,000 cubic metres of unconsolidated clean fill for compaction up to the proposed finished surface level of 16.6 metres AHD, and approximately 540,000 cubic metres of structural fill for warehouse pad completion. Diagram of the MPW Stage 2 proposal showing indicative fill levels across the overall MPW site is provided for reference. As part of the MPW Stage 2 approval, the applicant has already been granted approval to import 1,600,000 cubic metres of fill to raise the site. Under condition 19(b) of the MPW concept plan approval, the total volume of uncompacted fill to be imported can exceed 1.6 million cubic metres if it can be demonstrated that a future DA, that the proposed finished surface level of any filled section of the site does not exceed 16.6 AHD.

Throughout the assessment of the proposal, we sought further advice from the applicant to justify the need for additional fill. The applicant's view is that when compacted the fill material would have an in situ volume approximately 15 to 20 per cent lower than its uncompacted volume, leading to a shortfall in the amount of imported fill required to fill the site, because the approval places a limit on uncompacted fill to address traffic impacts. The applicant also asserts that the proposed additional 540,000 cubic metres of clean structural fill for warehouse pad completion is required to provide suitable support to the proposed interstate terminal, rail lines, warehousing and distribution facility pad sites, and associated external pavements and container movement areas.

The Department has consulted extensively with the EPA throughout the assessment of the proposal, and the EPA has recommended a series of conditions to manage impacts associated with the importation of fill material, consistent with the requirements of MPW Stage 2, including that only virgin excavated material, or VENM, appropriately classified in accordance with the Waste Classification Guideline, is to be imported to site, that the importation of fill across the Moorebank Precinct as a whole must not exceed 22,000 cubic metres on any given day, which is a precinct-wide cap already in place and which we recommend applies to Stage 2 as well, and conditions B40 to B44 of the MPW Stage 2 consent should be replicated for this proposal, including a requirement for records of source, volume and type of fill imported to site, prescriptive controls for land disturbance and land fill activities, a time limit on the permitted duration of stockpiles, prescriptive controls for the management of those stockpiles, for example, they should not exceed 10 metres in height, they must be benched over four metres in height, they must have a maximum of one vertical to three horizontal slopes, and must be stabilised if they're not being worked on, and the preparation and implementation of a construction soil and water management sub-plan for construction works to manage dust, erosion and sediment from the stockpiles.

We have also recommended a series of other detailed conditions based on the MPW Stage 2 consent, including requirements for land disturbance and filling activities to be conducted in a phased manner, impacting a maximum contiguous area of 65 hectares at any one point in time, which is approximately one-third of the MPW site area. No disturbance of other areas are permitted until defined triggers for

stabilisation of the previous area have been met, and ensuring that the existing whole of precinct cap on importation fill of 22,000 cubic metres a day. Further, we have recommended prohibiting stockpiling of imported fill material for longer than six months before placement to avoid long-term stockpiling, and allowing only one  
5 crushing plant to operate at any one time across the site, either under MPW Stage 2 or MPW Stage 3, to manage noise and dust impacts.

Finally, we have recommended a condition that prohibits the finished surface level of any filled section of the site from exceeding 16.6 metres AHD. Overall, our  
10 consideration is that with the implementation of those recommended conditions of consent, including the preparation and implementation of construction, traffic and access management plan, and other conditions relating to fill and stockpile management, that impacts with the – associated with the import of fill for the MPW Stage 3 works can be appropriately managed. Moving on to contamination.  
15 Following the RTS, the EPA made a submission that the applicant is yet to provide evidence of a contamination management plan and a long-term environmental management plan, or their suitability, as determined by a site audit, to the EPA.

I can advise you that the applicant has since provided evidence and advice to the  
20 EPA, and demonstrates contamination management plan under condition B164, and the long-term environmental management plan under B172 of MPW Stage 2 have been reviewed and approved by the site auditor and submitted to the EPA and the Department. As such, the contamination management plan requirements are not necessary to be invoked for stage 3. At this stage, the key remediation documents  
25 are the approved long-term environment management plan and the site audit statements, which will need to be prepared by a site auditor after importation of fill and prior to the operation of each part of the site.

I have considered further advice from the EPA. We have recommended conditions  
30 that re-emphasise the need for those final site audit statements to be prepared for the site once fill importation is complete. The applicant may conduct the site audits in a staged manner, or separate audits completed for specific parts of the site that it wishes to prepare for occupation. This multi-stage audit approach is not prohibited by condition 171 of MPW Stage 2. Therefore, a multi-stage audit process may allow  
35 construction of permanent built works, and other works to commence progressively across the site as the importation and verification of fill is finalised for distinct sections.

Other than the perimeter road which was part of this development application, those  
40 permanent built surface works need to be subject of other planning approvals. Once the perimeter road which was part of this development application, or other than that, those perimeter built surface works will need to be subject to other planning approvals. The Department can provide – provide the Commission with additional information and discussions between the EPA and the Department on this matter if  
45 you wish. Before I move on to construction noise and out of hours, any comments or questions on contamination or fill?

MS LEESON: Yes, Erica. I think Richard has one then I have one to follow up Richard.

5 PROF MACKAY: Thank you, Erica. That's very – all very clear, and particularly appreciated is the linking back to the previous conditions. Has the EPA itself confirmed that it is now satisfied and not pressing the concern that it expressed in the response to submissions, please.

10 MR HEATH: Yes. Yes, we have – we have evidence of that and we can provide the Commission with that if it helps.

15 PROF MACKAY: I – look, I think in terms of closing the loop, that would – it would be very helpful to have that, and then that concern is kind of closed off. Thank you.

MR HEATH: No problem. We will send that through.

20 MS LEESON: Yes. Thanks, Richard. That went to my issue as well, which was really just closing out the documentation around that matter. So thanks, Nathan. If you can take that on notice.

MR HEATH: Yes. Yes, we apologise for that. It may appear to be unclear, but yes, we definitely have that response from the EPA.

25 MS LEESON: Thank you.

30 MS VAN DEN HONERT: All right. Let's move on to construction noise and out-of-hour construction works. So another key aspect of the proposal is construction noise and proposed out-of-hour construction works. The figure on the screen shows the closest receivers to the MPW site, with residents in Casula likely to be most affected. The Department considers that construction noise impacts can be effectively managed through the implementation of a construction noise and vibration management plan for the development, prepared in accordance with the interim Construction Noise Guidelines, as well as the recommended out-of-hours works protocol for out-of-hours works.

40 The applicant proposes to conduct material delivery and stockpiling activities outside of standard hours. The Department considers that these works could be conducted acceptably provided the applicant provides further justification for these works and why they need to be conducted outside of standard hours, and prepares a robust out-of-hours works protocol. In doing this, we note that under the existing condition B135 for MPW Stage 2, certain out-of-hours works are allowed under an out-of-hours works protocol, including works associated with the Moorebank Avenue/Anzac Road upgrades, delivery of the rail connections and works during rail possession periods.

45

We also note that the Department has extensive experience reviewing these out-of-hours works requests for other major infrastructure proposals. The Department has consulted the EPA and considered the requirements of the interim Construction Noise Guideline throughout the assessment of the applicant's proposal and we  
5 consider that because the importation and placement of fill under this proposal would be deferred until after fill is imported under MPW Stage 2, and would take place concurrently with other traffic-generating construction and operation works, the applicant may be able to provide further justification that completing these works out of hours would be of benefit to the community from a traffic network operation  
10 perspective, for instance.

The protocol would need to be approved by the Planning Secretary prior to commencement of any out-of-hours works for the proposal, and it would need to provide evidence of how feedback from the community consultative committee has  
15 been incorporated to develop the protocol, and specify what works are proposed out of hours, provide details and clear justification for why the works must be done. Reasons other than convenience must be provided. Detailed assessment of out-of-hours works against the relevant noise management levels and vibration criteria, provide detailed mitigating measures for any residual impacts, that is, additional to  
20 general mitigating measures, including the extent of noise receiver treatments and include proposed notification arrangements.

We note that the EPA has also advised concerns about compliance with operational noise limits in its submission on the RTS. The EPA's concerns were dealt with by  
25 the Department in its determination of the MPW Stage 2 modifications that were approved in December 2020. As they are operational-based conditions, it wasn't necessary to address in detail for this proposal, but we do note the conditions were updated having considered EPA's comments. That's all on noise. If you have any questions on noise, otherwise we will move on.  
30

MS LEESON: Yes. Richard.

PROF MACKAY: Well, look, thank you again, and just dealing with them in the reverse order. Do I understand that most recent piece correctly in that – I mean, the  
35 EPA's advice in response to submissions suggests that some of the noise limits were unachievable for Moorebank West, and is what you're saying, Erica, firstly, that that's an operational rather than a construction matter, and in any event, it's now covered by the conditions attached to the November 2020 MOD?

40 MR HEATH: That is correct.

PROF MACKAY: Yes. Okay.

MR HEATH: Yes.  
45

PROF MACKAY: So it doesn't apply to the works proposed in this application, even though it has been raised by the EPA, and in any event, it has now been addressed.

5 MR HEATH: Correct.

PROF MACKAY: Thank you .....

10 MR HEATH: Yes. So the modification and this proposal were running concurrently for most of last year, so the EPA's advice wanted to check off on, I guess, all components.

PROF MACKAY: Yes.

15 MR HEATH: But that has definitely been resolved through that – that mod 2 concept modification, yes.

20 PROF MACKAY: All right. Thank you for that. Just coming back to the out-of-hours work protocol, please, and again, I'm just trying to make sure that the Commission has a correct understanding. Is it necessary to have an additional condition allowing the prospect of an out-of-hours work protocol, using the mechanisms and tests that you have described, when that's already provided for through condition B135 of the stage 2 consent?

25 MR HEATH: Yes, I believe it is. The Department – I guess the position we took is because this is a standalone consent, whilst it does interrelate with the stage 2 consent in regards to the replication of some conditions, I guess that standalone condition for out-of-hours works is – we think it's required under this consent, and it's important to note the activities that they're proposing to undertake out-of-hours works for, so it's really only around the importation of fill material, some stockpiling activities, so we wanted to restrict those activities to what they were proposing under this proposal. Under stage 2, initially under B135 it was for different components, so it was more construction of the terminal, for rail corridor possession, so they were slightly different activities.

35 PROF MACKAY: So is it – thank you. That's again very helpful. So it's correct to say that insofar as an additional condition would be desirable for this application, it's in fact a condition which puts metes and bounds around how an out-of-hours protocol might work with respect to the construction activity?

40 MR HEATH: Correct, yes.

PROF MACKAY: Thank you. That's all from me. Thank you.

45 MS LEESON: Thanks, Richard. I mean, I think that goes in part to some questions that we have from the Commission, is the approach to conditions in stage 2 and stage 3, which you might be going to explain to us a little more, but I think that's – that

was one example of us trying to understand what the conditions are across stage 2, and the relevance and applicability of stage 3 conditions to some of the stage 2 areas. So perhaps we will come to that in a little time.

5 MR HEATH: No problem.

MS LEESON: I'm comfortable with that out-of-hours explanation, so happy for you to move through.

10 MS VAN DEN HONERT: All right. Well, let's move – let's move then onto construction traffic and access. The traffic assessment for the proposal found that no significant changes to construction traffic modelling previously undertaken as part of stage 2 are proposed, and no changes to road upgrade works approved under stage 2 are sought. The applicant considered it appropriate to use traffic modelling prepared  
15 for the MPW Stage 2 traffic assessment, which was done by Arcadis in June 2017, to inform the traffic assessment under this proposal, so no new traffic modelling was prepared as part of this proposal. The Department considers that construction traffic impacts associated with MPW Stage 2/3 works can be actively managed through implementation of a detailed construction traffic and access management plan, or  
20 CTAMP.

Consistent with the Department's regulation of industrial developments of similar scale, the Department has recommended the applicant implement a driver code of conduct to ensure the drivers use the routes agreed to in the CTAMP. Regarding  
25 construction access to the site, the applicant proposes to use two access points along Moorebank Avenue. Similar to MPW Stage 2 construction works, the primary construction access would be via the Chatham Avenue/Moorebank Avenue signalised intersection, which would facilitate most heavy vehicles, light vehicles and construction equipment accessing the temporary works compound area. An  
30 additional construction traffic access point would be provided at the Anzac Road/Moorebank Avenue intersection which would link up to a permanent perimeter road running adjacent to the western boundary of the MPW site. That's all on construction traffic and access. So - - -

35 MS LEESON: So just a quick follow-up on that.

MS VAN DEN HONERT: Yes.

40 MS LEESON: You said there has been no update to traffic modelling since 2017, and so they have relied on that for this application which supported the stage 2 application; is that right?

MR HEATH: Correct.

45 MS LEESON: Okay. And in terms of the driver code of conduct, this is another one of those examples where there's a condition in stage 2 and condition in stage 3.

I'm interested to understand the differences and whether the two sit side by side and how they're intended to operate.

5 MR HEATH: So there were concerns around, I guess, the requirements under that conduct, how they're different under stage 2 to stage 3.

10 MS LEESON: Yes, and so there's a difference – is there a difference in how they're meant to operate between stage 2 and stage 3? And I guess for ease of operation of the site, whether the applicant has two separate sets of conditions to actually be working with.

MR HEATH: Yes.

15 MS LEESON: So it's a – I guess it's a – it's a consistency and a workability issue for the applicant should it be approved.

20 MR HEATH: Yes. Yes. So I guess there's a few components to that. The first is when we were drafting the consent we tried to marry up and integrate certain requirements from stage 2 into this consent as relevant, but also in doing that as well, our standard draft conditions template that we use has now sort of changed a bit from when those stage 2 conditions were drafted. So some of those requirements are simplified a bit, and they're not exactly word for word for the stage 3 and the stage 2, which, yes, we understand could potentially be confusing for the applicant. We had detailed discussions with the applicant, two or three rounds of negotiations, and they didn't raise those inconsistencies or any potential inconsistencies as a concern to them, and they were happy with the final conditions that we did recommend to the Commission. However, if there's sort of – if there's a perceived, I guess, inconsistency, that's something that we can definitely look at amending and making them a bit more like for like.

30 MS LEESON: Thank you. I mean, I think the point was is the Department confident that there is no inconsistency between the proposed conditions and the stage 2 - - -

35 MR HEATH: Yes, we are. Yes, we are. Yes.

MS LEESON: Thank you. Richard, have you got any - - -

40 PROF MACKAY: Yes. If I could just – it's Richard Mackay. Could I quickly loop back to the traffic issue, understanding what has been said. Has there been any further update on the traffic modelling during the assessment process or subsequently, please?

45 MR HEATH: No, there hasn't, not for construction traffic.

PROF MACKAY: Thanks. Look, I think that's all. I – the Commission I think will turn our mind back to the – where there are different forms of words used between



the stage 2 and stage 3 conditions, but my clear understanding is there – insofar as there are different words, they're intended to be consistent, they're believed to be consistent and able to operate in parallel.

5 MR HEATH: Yes, correct.

PROF MACKAY: Thank you.

MS LEESON: Thank you.

10

MS VAN DEN HONERT: Right. We might just move on to the other matters. We note that the Commission would like to discuss how we have addressed council's recommended conditions and Heritage impacts. Council conditions. Firstly, the Department has considered all the components of the Council submissions on the EIS in detail, including appendix A of council's submission. Most conditions recommended, including conditions prior to the issue of a construction certificate, prior to works commencing, during construction, and prior to the issue of a subdivision certificate have been incorporated as part of the draft recommended conditions of consent.

20

However, we would like to advise the Commission that some conditions recommended as part of appendix A are not within the scope of the stage 3 works, or are, instead, addressed as part of the stage 2 consent. These include works related to operational traffic, road upgrades, the requirements for a workplace travel plan. With regards to Heritage, we also note the Commission's interest in potential visual impacts, including on Glenfield Farm. As the focus of the proposal is construction and construction works, the Department has recommended conditions that would minimise visual impacts of construction, including prescriptive controls on the management of stockpiles on site, as we discussed previously, for example, requiring stockpiles not to exceed 10 metres in height.

30

More broadly, visual impacts associated with raising the height have been addressed as part of MPW Stage 2, and we note our recommended condition that no filled section of the site is permitted to exceed the 16.6 metre AHD. Any additional operational stage visual treatments would need to be addressed in any future planning approval for future warehousing. The Department considers that the applicant's mitigation measures can be incorporated into its construction environmental management plan for the development, and conditions related to the standards for outdoor lighting. We have recommended conditions relating to lighting, but are happy to consider further, reflecting the applicant's other commitments into the CMP requirements. And that is all from us. Thank you. Happy to take any further questions you might have.

40

MS LEESON: Thanks, Erica. Can I just take us back to the council submission, and I understand you're saying that some of the recommended conditions are really not pertinent to this stage 3 application. They're more a stage 2 or an operational issue. Council has raised a couple of times, it appears, the issue of contributions, so

45

there's a VPA with the applicant and Transport for New South Wales, and council has raised the prospect of a VPA, or contributions, rather, to deal with any impact on local roads. Does the Department have a view on that or any comment and advice to provide us?

5

MS VAN DEN HONERT: Nathan.

MR HEATH: Yes. So we believe that has been addressed as part of the stage 2 consent, and it's not directly linked to this stage 3 application, just due to the scope of works proposed.

10

MS LEESON: Okay. So the stage 2 consent dealt with a contributions issue for council.

MR HEATH: Yes. So under the stage 2 consent, there was a VPA requirement, and yes, we believe that has been addressed under stage 2.

15

MS LEESON: Okay. Thank you. And just finally, you mentioned a little earlier that the stage 2 modification was on foot at the same time as this application, and thought that – or I think suggested that that had in part for council's submission actually confused the story a little with it being about construction for this one but operations for the other, and hence some of the operational issues. Is that a comment that you would apply to some of the other submissions that have been made about the use of the site and about operations?

20

25

MR HEATH: So is that regarding EPAs submission on operational noise?

MS LEESON: Well, a lot of the community submissions have been about operational issues as well, and I'm wondering whether the Department thinks that some of that is because those issues relating to operations were really being dealt with as part of the stage 2 mod, and they have carried that through to this stage 3 application.

30

MR HEATH: Yes. Potentially that may have been the case. I'm not aware of the – the – you know, the specific details of that modification, but I guess any further questions on that we're happy to take on notice, but – yes.

35

MS LEESON: Okay. No, it wasn't a specific question, but we might come back to it if we do get something – you know, if we think of something there that we want to particularly ask.

40

MR HEATH: No problem.

MS LEESON: Richard.

45

PROF MACKAY: Thank you, Di. It's Richard Mackay. Could I just query, please, in relation to appendix B of the Liverpool Council submission. A range of matters

are raised broadly around the theme of engineering, and would it be possible for the Department to provide an answer about how those representations were addressed in this application and assessment, please.

5 MR HEATH: Sure. So we did consider that submission in whole, so including appendix A and appendix B. In regards to – is it appendix B that’s the engineering conditions, I believe?

PROF MACKAY: Yes. Yes, it is.

10

MR HEATH: So we have tried to incorporate those applicable engineering conditions as relevant. I note that council did raise the fact that some of them hadn’t been addressed. We’re not aware of any conditions that haven’t been addressed. The stage 2 consent is very robust in how it manages with those matters, and also speaking to council, they didn’t – their – their overall concern was around 15 subdivision, and they didn’t really raise any further engineering issues to me in person, but I do note that it does say that in the submissions, so – but we have considered that throughout our assessment.

20 PROF MACKAY: Well, thank you, Nathan. I mean, it might be something that the Commission might put back directly to council.

MR HEATH: Sure.

25 PROF MACKAY: Because I agree it’s very confusing to try and sort through what from appendix B is relevant to the application before the Commission, and of that, what is not already addressed in the assessment report and conditions. So I just thought if the Department has done some analysis of that, it would be helpful to see it, but we perhaps should ask council directly. My other questions relate to Glenfield 30 Farm, the State Heritage Register item. In the assessment report, it suggests that the applicant has done some analysis which suggests that the visual impacts from identified building locations are not material. Are you able to advise whether they specifically looked at the Glenfield Farm issue? And I do appreciate that this is, you know, possibly a concept plan certainly stage 2 rather than stage 3 issue, but I’m also 35 conscious that it has been raised directly with a specific recommendation from Heritage New South Wales, and that there may be an opportunity to address that concern through the construction and environmental management plan, for example.

MR HEATH: Sure. So the applicant did commit to implement some mitigation 40 measures under this proposal, and in the mitigation measures proposed in – I believe it’s appendix 3 of the consent – the draft consent. There are requirements such as boundary screening or locating plant and machinery away from the boundary. Now, they’re requirements that we haven’t specifically included under the CMP requirements in the draft consent. However, they are commitments that the applicant 45 have committed to exploring. Now, in regards to the applicability of, I guess, those impacts to this proposal, we note that under stage 2 those issues have been considered in depth, and under the concept proposal too, and also, I guess, under any

future planning approval for warehousing under that southern portion, that would be considered in detail. I guess the reason why this stage 3 proposal doesn't go into the depths of that is because, I guess, no permanent built surface works other than the perimeter road are – you know, are proposed under this proposal, so I guess that's  
5 mainly where we're coming from. But the applicant has committed to including some requirements under the CEMP as well.

PROF MACKAY: Thank you for that, and I think the Commission is conscious that this particular recommendation request from Heritage New South Wales have  
10 probably arrived, you know, at a point in the sequence of consideration that's late, but would the Department see any problem – I mean, if the Commission were of a mind to approve and were of a mind to say, "Look, there is – there is a substantial issue concerning the visual setting of Glenfield House," is there any technical  
15 problem in wrapping that into a sort of sub-condition related to the CEMP?

MR HEATH: No, we're happy to consider that and include some additional requirements as part of the CEMP. That's no issue.

PROF MACKAY: Yes. Well, obviously the Commission is yet to inspect the site  
20 and – so we can turn our mind to that. Thank you.

MR HEATH: No problem.

MS LEESON: Okay.  
25

PROF MACKAY: Nothing further from me.

MS LEESON: No further issues for you, Richard? No. I have no further issues  
30 either. I think you have comprehensively covered what we sent across as an agenda and taken a couple of questions on notice that you will come back to us on, and we will follow up those formally, Brad, to come across to you and seek your responses and then put them on the website. So is there anything further that the Department wishes to talk to the Commission about this morning?

MR HEATH: Nothing from me.  
35

MS VAN DEN HONERT: No, nothing from me either.

MS LEESON: All right. If not, then I would like to thank you on behalf of Richard  
40 and myself for your time this morning and your open approach to this morning's meeting. So that will conclude the meeting, and thank you very much.

MR HEATH: No problem. Thank you.

MS VAN DEN HONERT: Thank you very much.  
45

MS LEESON: Thank you.

**RECORDING CONCLUDED**

**[9.00 am]**