



**New South Wales Government**  
**Independent Planning Commission**

**TRANSCRIPT OF PROCEEDINGS**

RE: HELIPAD PENRITH LAKES (DA21/15298)

**DEPARTMENT MEETING**

COMMISSION PANEL:           CHRIS WILSON (Chair)  
  DR SHERIDAN COAKES

OFFICE OF THE IPC:           CASEY JOSHUA  
  COURTNEY COLEMAN

DPE:                               ALAN BRIGHT  
  GLENN SNOW  
  ALEXANDER SCOTT  
  FADI SHAKIR  
  ROB BULLEN (Acoustic Consultant)

LOCATION:                        VIA VIDEO CONFERENCE

DATE:                             9.30AM, MONDAY, 20 JUNE 2022

**TRANSCRIBED AND RECORDED BY APT TRANSCRIPTIONS**

MR WILSON: Before we begin I'd like to acknowledge the traditional owners 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 Penrith Lakes Helipad DA Project currently before the Commission for determination. My name is Chris Wilson, I am the Chair of this Commission Panel. I am joined by my fellow Commissioner Dr Sheridan Coakes. We're also joined by Casey Joshua and Courtney Coleman from Office of the Independent Planning Commission. In the interest 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  
10 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 determination. It is important for the Commissioners to ask questions of attendees and to clarify issues whenever it is considered appropriate. If you are asked a question and not in a position to answer, please feel free to take the question on notice and provide any additional information in writing which will then be put on our website. I request that all members here today introduce themselves before speaking for the first time and for all members to ensure they do not speak over the top of each other to ensure  
20 accuracy of the transcript. We will now begin.

So we understand, Alan, that you've prepared a presentation. We just had a brief discussion beforehand in relation to how that presentation should proceed. We thought we might just - at the end of each section of that presentation because they're all based around certain aspects of the development and associated impacts that we could ask questions at the end of the presentation on noise and then the presentation in that respect rather than waiting till the end. Is that okay by you?

MR BRIGHT: Yes, I think should be fine. Alex, is that okay by you?  
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MR SCOTT: Yeah, that's fine by me, yep.

MR WILSON: Okay. So then we're handing over to Alex, are we, Alan?

MR BRIGHT: Yes.

MR WILSON: Okay. Away to you, Alex.

MR SCOTT: Yeah, great, thanks everybody. So I'm Alexander Scott, I'm Acting  
40 Director of Freight Assessment Management at the Department of Planning and

Environment and I can take us through the presentation here. Is that something that you'd rather me share at my end or is that something that - - -

MR WILSON: Well, we all have copies, we'll leave it to you, Alex.

MS JOSHUA: I'm happy for you to drive if you like.

MR SCOTT: Okay. Yeah.

10 MS JOSHUA: Let me know if you have any issues.

MR SCOTT: No, I'm happy to do that. I'll just have that ready. So thanks everybody. So as I said, I'm Alexander Scott and I'll be taking you through the presentation outlining the department's assessment of this proposal. So in summary, it's - the key aspects of the development is the operation of a helipad with up to 25 flights per day. We received 241 submissions. My apologies, I'll just get back on that. We've received 241 submissions with kind of 200 unique objections. The key issues here are really the noise evaporation and land-use permissibility, and the department's recommended approval subject to conditions.

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To give a more detailed overview and you can see an image of the site plan - the proposed site plan on the left of the screen. So the proposed operating hours are 5.30am till 10.00pm with up to five night flights per week. We would also point out there's some discrepancies around those operating hours and some of the EAS documentation which we can talk through kind of in relation to noise. The proposal also includes the installation of a fuel tank and the removal of some trees and we'd also note that the application has been modified and amended as some of the initially proposed works were completed without authorisation.

30 So the proposal is in the Penrith Lakes Scheme, it's at the regatta centre, it's in the Penrith Local Government Area and surrounding this is a rural residential, recreational and future industrial uses. From a statutory point of view it's both integrated and designated development and the EPA has issued general terms of approval under the POEO Act. With the submissions the key issue that's been raised is noise. There's two broad groupings of submissions, those from Cranebrook residents to the east of the site and those from residents in the Blue Mountains. Other issues raised include operating hours and flight paths.

40 Penrith City Council didn't object to the proposal but did comment and did make suggestions for what the department's considerations should be around noise and stability and flooding. Blue Mountains City Council did object to the proposal and

they cited noise permissibility and impacts on the world heritage area. I'll just take you through the unauthorised works and verified CIS codes. So the applicant provided a request to amend the DA to delete unauthorised works which include demolition of three sort of fairly derelict three-storey sheds and associated hard stands. The removal of one in-ground water tank, removal of a flood light and installation of a new concrete hard stand.

10 They provided engineering certifications that confirm compliance with - of the hard stand with relevant engineering specifications. The department's considered the ongoing use of these unauthorised works noting that we can't give retrospective approval for unauthorised works and so we've considered those works now, assessed them, you know, we feel they've got plenty of merit. There's a Site Context and Location Plan. I won't labour this point but I'll just point out a couple of key areas here. We've got the waterside estate over to the east of the site, we have - sorry, it's not highlighted but you can see there's some houses sort of between the subject site and the waterside estate that are the two rural residential areas and we've got the Sydney National Regatta Centre and the regatta lake off to the north.

20 MR WILSON: Alex, just on that point, it's just worth mentioning that we were out on site last week.

MR SCOTT: Okay. Great.

MR WILSON: So we've had a good look around in terms of the context and surrounding land uses and so forth.

MR SCOTT: Excellent, yep.

30 MR WILSON: Okay.

MR SCOTT: So proposed flight paths that form part of this application are they fly east or west of the helipad and they curve around to the south with a distance of around 3,500 metres. The flight paths have been chosen for several reasons. They take advantage of the prevailing westerly winds and pilots have a preference to take off and land either into or with the winds rather than across them. It avoids flying north-south over the Regatta Centre course and the flight paths in this location - the location of the first helipad, it's outside the prescribed air space for both Western Sydney Airport and the Air Force Richmond Base.

40 We note there's been quite a number of submissions that talk about, or raise concerns with, you know, potential flight paths or flight areas over the Blue Mountains and

elsewhere. While the - I guess the development application for a helipad has sort of limited ability to regulate where helicopters fly, you know, outside the act of taking off and landing, the general act of flying a helicopter isn't something that requires development consent. I guess we would point out that civil aviation safety regulations do set minimum flight heights for helicopters or around a thousand feet so, I guess, that's some consideration that we've given to concerns around low flying but we are satisfied that the relevant civil aviation regulations would, you know, prevent that from happening or prevent it from happening lawfully. Please, by any means, if there's any questions that the Commission have at any of these points, please just let me know and we can attend to those.

We also understand that the Commission is interested in the respective regulatory functions of the EPA and CASA, the Civil Aviation Safety Authority. So the advice that we've had from the EPA is that the EPA doesn't regulate the in-flight aspects of helicopter facilities. Their regulatory function is limited to non-flight aspects which would primarily be sort of in-ground base maintenance activities and so the EPA doesn't regulate in-flight noise and it doesn't have any current guidelines for in-flight noise. CASA does provide the operating guidelines for the establishment of Helicopter Landing Sites, HLSs, and it has sort of a myriad of rules and regulations that govern sort of how flights would operate through the course of their normal operations.

MR WILSON: Okay. So the next one we get to is on the noise, don't we?

MR SCOTT: We do, that's right, yep.

MR WILSON: I've just got a few questions. So my understanding - if we go back to the summary - the 25 flights per day is worst case scenario. My understanding is that it's limited to 1500 flights a year, is that correct?

MR SCOTT: Yeah, that's my understanding of the environment protection licence that the applicant had carried on with their previous operations.

MR WILSON: I think it's with annual consent. It's not in the GTA, it's in the consent - it's in your draft recommended conditions, isn't it? Anyway, I mean, we can confirm that but I thought you had the limits.

MR SCOTT: The 25 flights per day, do you mean, in terms of - - -

MR WILSON: The 1500. I saw it somewhere. Maybe it's in the GTAs. That's what they've sought approval for, 1500 movements a year.

MR SCOTT: Well, that's something we had some discussion with the applicant, it's not something that they've sought approval for as part of their development application but we do understand that that's the overall yearly limits that have been applied to there.

MR WILSON: Yes. Okay. Whether it's what they asked for, whether it's set but that's going to be the upper limit which equates to about 4.1 movements or two flights per day if it was - even averaged over 365 days.

10

MR SCOTT: Yeah, that's - - -

MR WILSON: So the 25 is the worst case scenario which may happen on a number of occasions but is unlikely - it's not going to be the norm, it's just worst case and that's what all the assessments have been done on, the worst case scenario, is that correct?

MR SCOTT: That's correct, yep.

MR WILSON: Just in terms of the operating hours. I'm confused by the operating hours. There's 7.00 to 10.00, there's 6.00 to 10.00, there's early - first light to something else. So I presume then you're trying to confirm this through the conditions, recommended conditions that the operating hours will be, I think you said, 6.00 to 10.00? That's right.

20

MR SCOTT: Yeah, that's right, that's sort of been recommended there, yep.

MR WILSON: Okay. So my understanding that most of those flights will happen between 7.00 and 5.30 or something, is that correct?

MR SCOTT: Yeah, that's - yeah, that's correct, yeah.

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MR WILSON: Sheri, jump in if you've got anything?

DR COAKES: Yes, I will do, Chris, thanks.

MR WILSON: Just on the unauthorised works. I don't want to spend too much time on this but just looking at those unauthorised works, would they have been able to be completed - notwithstanding you've done an assessment of those works, would they have been able to be completed as exempt to complying development? Did someone look at that?

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MR SCOTT: We did look at that recently. The demolition may have been able to but the concrete hard stand, I understand, would've been too large to fall under any of those categories.

MR WILSON: No, I agree with that but certainly the sheds, the in-ground water tank and the flood light probably could've been done as exempt to comply, yes?

MR SCOTT: Yeah, quite probably, yeah.

10 MR WILSON: All right. And you said that they've been certified or they're going to be certified, will need to be certified?

MR SCOTT: They've provided some certification from a structural engineer around the adequacy of that concrete slab, yeah.

MR WILSON: Okay. All right. Yes, and just in terms of your report, it says that Cranebrook is the most affected or likely to be the potentially most affected residential area but I would've thought it was Waterside as you've said in your presentation.

20 MR SCOTT: Sorry, just to clarify. We've probably used those terms a little bit interchangeably. We've got Waterside is the name of that particular kind of estate, it's within the suburb or Cranebrook but it's just called the Waterside Estate, yep.

MR WILSON: I got you. Okay. So it's all part of Cranebrook?

MR SCOTT: Yeah, that's right.

MR WILSON: Then we looked at the boats thinking they were different entities or different suburbs. Okay. I understand now, thanks. Appreciate that. That's all I  
30 have. Sheri, do you have anything else at this stage?

DR COAKES: No, no, all good.

MR WILSON: No. All right. Let's move on to noise.

MR SCOTT: Okay. So I'll talk through the noise. So as I mentioned earlier there's currently no specific kind of policy guidance or standards that are specific to helicopter noise in flight. In the absence of that the department's adopted a noise level of 48dBa, the 24-hour weighting, and that's something that we discussed with Mr  
40 Bullen and it's the equivalent to the Australian Noise Exposure Forecast 13 level. So ANEF if you're familiar with it is essentially a series of contours surrounding airport

that guides landing decisions around airports and as a general kind of rule you'd add 35 to an ANEF to get your dB level and this is something that the Land and Environment Court's accepted in recent cases related to helipads and heliports as an acceptable noise level for sites that don't have any existing kind of aircraft noise on them.

10 So the department's engaged with Bullen Consulting to assist its peer review. There are two versions - there's been two revisions of the applicant's sort of acoustic report that have been provided, but one thing I would point out is that we've just realised that the version on the department's website is a superseded version and we've just sent over a copy of kind of the updated version of that to the Commission and we're getting that put onto the department's website as well. The difference between them is that the newest version of it speaks to the onsite testing that the department - I mean, Mr Bullen had observed, there's no differences to its conclusions. So as I mentioned, the department and Rob Bullen attended the applicant's onsite noise monitoring and did our own monitoring to verify those results which we did and so we accept that noise assessment and we're satisfied that the proposal will meet the noise criterion subject to the operational limits that are recommended in that acoustic report.

20 MR WILSON: We might just spend some time on noise just for obvious reasons.

MR SCOTT: Yep.

MR WILSON: Being the key issue. So, Rob, maybe worthwhile you talking to - why 48? I mean, I understand it's been identified, you know, in LEC decisions and so forth but why is 48 the right level? Is that - it's a layman's question, I'm sorry. You're on mute, Rob. Still can't hear him.

30 MS JOSHUA: We can't hear you.

MR WILSON: Rob, we can't hear you.

MS JOSHUA: You're not on mute though so I'm not sure what's - - -

MR WILSON: Okay. I didn't expect this. No, he's going to have to come back.

MR SCOTT: Sorry, Rob, I don't think your - - -

40 MR WILSON: It's not connected.

MR SCOTT: - - - computer's picking up your, picking up your microphone.

MR WILSON: No. Just while Rob's getting connected, Alex, my understanding then is that the 48dB was adopted and then they went and did some additional testing at the nearest residence, is that correct?

MR SCOTT: That's correct.

MR WILSON: To determine whether or not it would meet that criteria on the basis of - met the criteria - at that residence that it would meet the criteria at all sensitive receivers beyond that?  
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MR SCOTT: Yeah, that's the idea, yeah. So the onsite testing was done at that nearest residence. The address, I think, is 47 to 65 Old Castlereagh Road which is the receiver about 450 metres to the east and, yeah, that was just going to be the critical point for the actual measurement so that's why that was chosen.

MR WILSON: Because at that stage it's almost directly over the - with the eastern flight path. I think they're close to a thousand feet already, are they? But laterally they're not faraway from the residence?  
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MR SCOTT: No, that's probably the closest they go to being directly overhead a residential receiver.

MR WILSON: So look, while Rob's getting - we might just come back to noise because I really want to hear from Rob in relation to the 48 - - -

MR BULLEN: Am I audible now?

MR WILSON: Yes.  
30

MR SCOTT: Yes, yes.

MR BULLEN: Okay.

MR WILSON: Okay. Rob, just - I just wonder in the first instance we could understand why the 48 has been adopted, why it's an appropriate criterion?

MR BULLEN: Okay. There is a standard criterion for citing of new residences around existing aircraft noise which is based on the ANEF system and that is an ANEF value of 20. With an ANEF value of less than 20 it's considered appropriate - well, it's considered acceptable for new residences to be located in that area. An  
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ANEF is a fairly complicated unit and it's very difficult to measure but there's an approximate relationship, as I think you heard, of about 35 difference between ANEF and a unit called LEQ which is easy to measure and, therefore, more easily verifiable. So that 20 would correspond to about 55 ANEF.

10 Now, the difference is that there is a very large difference between bringing new residences to existing noise and bringing new noise to existing residences. If you have existing residences in place and you start bringing new noise to that condition the reaction of people will be very different to if they know there's noise there in the first place and move in. There's a lot of evidence that suggests that. Early work suggested that that difference might be worth about seven or eight decibels in terms of noise level which brings us to about 47 or 48 decibels. Later work suggests it's a bit more complicated than that but no one has come up with a usable criterion that's better than that. So that's fundamentally where that consideration comes from.

MR WILSON: Just in relation to that, do we know where - are there operational instances where that's been adopted for helipads which are currently operational?

20 MR BULLEN: Look, I'm not sure whether the helipads, where those judgements have come into place are actually operational, I suspect they are but that has been used in at least two judgements previously and the acoustic professionals who have been involved in those judgements have been in agreement that that is a useful criterion. There is another case where an even lower criterion has been suggested of 40 decibels. That's a special case, there are world heritage areas around and it's considered - it was considered that a lower value is appropriate. So basically I would say that there's a - a 55 decibel LEQ is sort of a ceiling where it's definitely too high. 40 decibels is about a floor where, you know, in a case like this it's probably too low, somewhere in the middle is about right and - - -

30 MR WILSON: Okay.

MR BULLEN: - - -the 48dB turns out about right.

MR WILSON: So the helicopters have to fly - once they leave the site - let's assume they're in flight, they're on their flight path, they're away from urban areas, they're flying over the world heritage they have to be over a thousand feet above AGL, I think it is, that's correct?

40 MR BULLEN: Yes. Yes.

MR WILSON: And at that level what would be the, you know, noise - the noise levels would be - if they meet 48 at that residence in taking off they're likely to meet 48 everywhere else.

MR BULLEN: Yes, they'll meet 48. LEQ is a measure that takes account of both the noise level of an individual event and the number of events. So as you spread out you might hear - you'll hear less events basically because they'll be fanning out, if you like, and certainly the noise - as you get further away the noise level will be lower as well.

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MR WILSON: Okay. So you were out there on site and the 48's met at the closest - R1, I think it is.

MR BULLEN: Yes.

MR WILSON: And on that basis you're comfortable that it will meet at all sensor receivers thereafter?

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MR BULLEN: What's actually measured on site is a unit called SCL which is a measure of the noise from an individual aircraft and the calculation is if a level of 82 SEL is recorded at that site then given 25 movements a day then you'll meet 48. So that's assuming the worst case number of movements.

MR WILSON: Yes. Okay. And that's - so I think you've conditioned it because if it was 25 over R1 it would - it wouldn't be compliant for a couple of flights, I mean, and then - - -

MR BULLEN: It will be more than compliant for less flights, yes.

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MR WILSON: Yes, yes. Okay. So that's why there's a requirement for 23 max to the east if there's 25 flights?

MR BULLEN: That's right. That's right.

MR WILSON: Okay. But that's unlikely to occur. My understanding is - I mean, they're only allowed 1500 flights a year, if they did 25 flights a day for three months they wouldn't be able to fly for the rest of the year.

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MR BULLEN: Well, yeah, yeah, that's right given that that's their commitment.

MR WILSON: Okay. Just in terms of ANEF, they're the circular - obviously they're the circular noise bans that they have around airports.

MR BULLEN: Yep.

MR WILSON: So what you're saying to me, if it's above 13 on that band it's habitable, I mean, it's appropriate for residential development to occur, is that what you're saying?

10 MR BULLEN: Well, ANEF is in terms of, as I said, bringing new development to existing noise and the standard says less than 20 is acceptable for that, for bringing new residential development to existing noise but if you're bringing new noise to an existing - - -

MR WILSON: Okay. Yes, I got you.

MR BULLEN: That's a different matter.

20 MR WILSON: Yes. All right. Okay. Another question. Just in terms of monitoring, you suggest monitoring in your report and it's been picked up by the draft recommended conditions. Does that need to include vibration? I understand that vibration is considered compliant with the relevant criteria, does that need to be monitored as well in your opinion?

MR BULLEN: I wouldn't think so. At the noise levels - if we're talking about the noise levels that we have then vibration will be minimal.

30 MR WILSON: Okay. The other question I had and it's not necessarily for you, Rob, but I guess in terms of the verification report and the regulation - I mean, it's very much contingent upon what - the types of helicopter are used, when they're used and so forth. You're comfortable that all can be done from the logs that they provide? How will that be done? How will you ensure that - I understand they're using certain aircraft that you're aware of but the mix of aircraft is important to meeting the criterion, isn't it?

MR BULLEN: Yes. Really only in terms of the use of the loudest aircraft.

MR WILSON: Okay.

40 MR BULLEN: Most of the others are pretty similar noise levels. That's why I didn't necessarily require in our monitor - require monitoring of every helicopter type, I think

it's not hard to determine the noise level of another aircraft type once we know one of them. Bell 429 is really the only aircraft type that's significantly noisier than the others.

MR WILSON: Okay. And that's minimised and that's movements is restricted to 16 or something, that's correct?

MR BULLEN: Yes.

10 MR WILSON: Okay. So you're comfortable that notwithstanding the mix of different helicopters that it would be - it's easy to monitor the outcomes of operations after the first three months?

MR BULLEN: Yes, I do think it's important to have that monitoring occur. I would say that the noise levels that we measured at nearest residence are two or three decibels below a standard prediction.

MR WILSON: Yes.

20 MR BULLEN: Now, that's possible, it happens because of site conditions, the way that the aircraft are flown in that particular site but I do think it's important to verify that that happens under operational conditions as well.

MR WILSON: Okay. And then there's - if there's adverse findings after that monitoring there's the scope to - do you believe there's a scope to change operations - I mean - - -

MR BULLEN: Well, the scope would be to simply reduce the number of operations as a trade off between the noise level and the number.

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MR WILSON: Okay. All right. So you're comfortable that that can be done. All right. Sheri, do you have any questions?

DR COAKES: Yes, just a quick one, Rob. Sheri here. In terms of sleep disturbance, obviously Penrith Council have raised that, I think, in relation to one of the earlier noise reports but you're comfortable that given they - with operating hours up to 10.00pm at night?

40 MR BULLEN: Up to 10.00pm is okay. I will say that all my reports were based on the acoustic logic - acoustic report which said that noise - that operating hours would be 7.00am to 10.00pm. If there are operations before 7.00am that's - I didn't believe

that that was going to be happening in my report and I think there probably should be additional constraints because that's a standard sleep period and the criteria I've been talking about aren't relevant to sleep disturbance. So I think any movements before 7.00am should be subject to additional noise criteria.

DR COAKES: Okay.

MR WILSON: Okay. Even if they're emergency flights?

10 MR BULLEN: No. Obviously for emergency operations all the noise criteria don't apply.

MR WILSON: Because at the moment I think the department's condition recommends 6.00 to 10.00, is that right, Alan?

MR SCOTT: Sorry, it's Alex here. Yes, that's correct, yes, but I do take the point about the sleep disturbance and that's something that, you know - - -

MR WILSON: Yes. Okay.

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MR SCOTT: - - - solutions could be to either change the hours or, I guess, get additional - - -

MR WILSON: You might want to respond to that, Alex, because at the moment we've got 6.00 till 10.00 and obviously that - I mean, sleep disturbance was a key issue in a number of submissions and I think we need to address that one way or the other.

MR SCOTT: Certainly, yes. Certainly we can provide some further advice on that.

30

MR WILSON: So I don't know if there's anything else, Sheri, that we need to ask Rob.

DR COAKES: No, no. I think the only other one, Rob, and it's probably just an easy one is the criteria for the Regatta Centre and the golf course. Obviously both of those are commercial criteria. Again has there been - you said obviously there's been difficulty in terms of the residential criteria, is that the same for commercial or you feel - - -

40 MR BULLEN: Well - - -

DR COAKES: - - - (not transcribable)

MR BULLEN: - - - in this particular case it's easier to meet.

DR COAKES: Yes, yes.

MR BULLEN: But what we've done is taken standard EPA amenity criteria for those active recreation areas. In other words if this were an industry, then it would have to meet these criteria. So given that, you know, it should be acceptable for a helicopter site as well.

DR COAKES: And just one other question and it is a lay person question, Rob, so apologies if it's really simple, but you predicted dBAs over an LEQ 24 hour, is that usual? Average over 24 hour given that all operations are only, you know, between particular hours?

MR BULLEN: Yeah. The 24 hour LEQ is just that's what gives about 35 difference from ANEF, that's how come that comes about. It means that - obviously if you took an average over only the operating hours it would be a slightly higher number than an average over 24 hours, but the 24 hours is the one that relates to the ANEF.

DR COAKES: The ANEF. Okay. Lovely. Thank you.

MR WILSON: Okay. I don't think we have any other questions on noise at this stage. As you're aware we only just received the latest report so we'll have to have a quick look at that. We may come through with additional questions after the meeting or after today, Alan, and - - -

MR BRIGHT: Okay. So, Chris, would you like us to wait to hear back from you before we address this consistency issue around the hours to see if you have any other additional issues?

MR WILSON: We'll have a quick look at this - well, have a closer look at this, the latest report and just make sure there's no further questions.

MR BRIGHT: Okay.

MR WILSON: Then we'll send across - I think we'll confirm it, will we, Casey, with an email? We may have other questions as well so we'll come back with an email after today.

MR BRIGHT: Okay.

MR WILSON: Okay. I think that's it, Rob, so it's up to you if you want to hang around. I'll leave it up to you and your team and Alan.

MR BULLEN: If it's okay I can - I'll leave you to it.

MR WILSON: Appreciate it, Robert, thank you.

10 MR BULLEN: Okay. Thank you. Bye.

MR WILSON: All right. Alex, we move onto permissibility, I guess. That's the next one.

MR SCOTT: Yeah. That's right. So the next sort of key issue that, you know, I suppose in the department the other really central issue the department's considered is around the permissibility. You know, as you would've no doubt seen a helipad is permissible but a heliport is prohibited which sort of begs the question what helipads should be characterised. So a helipad defines a place that's not open to the public, whereas a heliport is open to the public. So, yeah, there's that key difference between them. The department's considered this and our consideration is that the proposal is a helipad. It does rely on measures to prevent public access at the facility which the applicant's committed to in terms of maintaining fencing and a locked gate that is a physical barrier to people being able to enter the site and - members of the public, sorry, to be able to enter the site and, you know, in terms of who has permission to enter the site, that's allowed sort of via invitation.

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So, you know, members of the public can't arrive at the site without, you know, prior arrangement to use the facilities and the department's recommended conditions for approval that require that. They're the only two places, you know, in that sort of administrative component of the recommended conditions that state the, sort of, you shall not kind of type conditions. It's just that explain what the applicant must and must not do but also the plan of management that the applicant needs to provide needs to detail the measures that they're going to take to maintain that restriction.

30

MR WILSON: Yes. I'm just - it's an interesting one but the fundamental difference seems to be that public access and ancillary services, that would go with that public access, is that correct?

MR SCOTT: Look, I don't - yeah, I guess I don't know if I'd give it that interpretation. I guess we need to consider, I guess, kind of the role of kind of ancillary, ancillary sort of - - -

MR WILSON: Okay. Well, that's okay.

MR SCOTT: - - - ancillary facilities of the helipad.

10 MR WILSON: I haven't read their legal advice but the department's accepted that legal advice obviously?

MR SCOTT: Yeah, the department's considered - yeah, the department's considered that, yeah, the department's satisfied that, you know, the proposal, you know, is a helipad subject to those measures - - -

MR WILSON: So - - -

MR SCOTT: - - - of public access.

20 MR WILSON: - - - just on - one question on this then is if they've got a licence for maintenance, is that - for maintenance of those helicopters at that site at the helipad that doesn't mean they're repairing helicopters and it becomes a helipad?

MR SCOTT: Look, sorry, just having a look at that just to see what the - just reviewing that.

MR WILSON: Does that mean a commercial repair facility, does it? I understand what a terminal building is.

30 MR SCOTT: Yeah.

MR WILSON: I mean, they're obviously parking and storing helicopters on site.

MR SCOTT: Yeah, they do are doing that as part of their helipad proposal.

MR WILSON: I presume you have to do that as part of the helipad as well.

40 MR SCOTT: Yeah, I think - you know, I can see an argument that that's ancillary to that helipad use.

MR WILSON: Okay. All right. So really the fundamental difference is then basically is access, public access or otherwise, isn't it?

MR SCOTT: Yeah, that's right.

MR WILSON: So the department's argument is there's no ticketing, there's no public access, you've recommended conditions to ensure that the public can't get in, is that correct?

10 MR SCOTT: That's correct.

MR WILSON: Only by invitation. Okay. All right. Sheri, do you have any questions on that matter?

DR COAKES: No, no more on that.

MR WILSON: Okay. All right. We'll move on to cultural heritage.

20 MR SCOTT: Yeah, we'll move on to, yeah, cultural heritage - sorry, cultural heritage and flooding, which I understand the Commission was also sort of had some queries around. So in terms of Aboriginal cultural heritage, so look, I guess this is a part 4 application that's not State Significant Development or infrastructure, and because it doesn't require an Aboriginal Heritage Impact Permit under the National Parks and Wildlife Act it doesn't automatically require an HR or Cultural Heritage Assessment Report. The applicant had provided an Aboriginal Due Diligence Assessment in accordance with their Code of Practice specified in the legislation. It included a sort of visual investigation of the site but didn't find any Aboriginal objects on the site and it did a search of Aboriginal heritage inventory also didn't find any Aboriginal objects or places within the development site. I mean, the department accepts that due  
30 diligence assessment.

MR WILSON: So did that due diligence assessment argue that there was no need for an HR because there were no cultural - Indigenous cultural heritage issues on the site or - I mean, because artefacts are different in cultural heritage, I'm just trying to understand how that due diligence process, I guess, dismissed the need for further - for the HR and consultation that would normally go with HR?

40 MR SCOTT: Yeah, I guess, it found there was a sufficiently kind of small chance that those - so there were no known or - yeah, because of that visual investigation there were no known kind of objects or places within the site and because of that visual

investigation and the previous land uses which had changed the - kind of some of the land forms particularly quarrying and, you know, clearing of existing - - -

MR WILSON: Because it was so disturbed?

MR SCOTT: - - - vegetation on site. Yeah, essentially. So it sort of - so, I guess, it was below kind of the level that would be required in that sort of archaeologist professional opinion to require the HR.

10 MR WILSON: Okay. And obviously there's been concern raised by Penrith City Council - well, many submissions actually in relation to the impact of Aboriginal Culture Heritage in the Blue Mountains National Park and the department's view on that?

MR SCOTT: I suppose in a sense the department's view on that is that the - I suppose the Blue Mountains, you know, even the closest to the bushland areas to the Blue Mountains are approximately three kilometres away from the site and that there's - you know, the Blue Mountains World Heritage area, you know, the Blue Mountains National Park is further afield than that. So I suppose it comes down to that idea  
20 around where helicopters are able to fly generally and as we talked about limits on maximum heights that elevations be allowed to fly, you know, in the normal course of their flight, you know, and I suppose it's that difference between the - - -

MR WILSON: Yes.

MR SCOTT: - - - (not transcribable) helicopters may fly versus sort of the act of using the helipad to take off and land.

MR WILSON: Okay. Sheri?

30

DR COAKES: Yes. No, that's all, I think. So really, Alex, there's been no engagement with Aboriginal groups at all as part of the proposal then?

MR SCOTT: No, there hasn't been as part of doing that due diligence. You know, normally in the course of doing the Aboriginal Cultural Heritage Assessment that would occur once, I guess, it was determined to be a need for that HR and then there's consultation requirements.

MR WILSON: Yes. I think we need some confirmation, Alex, on why - I mean, I  
40 understand the due diligence report may have said that an HR is not required but I'm struggling with this difference between archaeological - you know, site-specific or,

you know, items that might be found on site to any cultural significance a site may have to the broader Indigenous - well, the landowners or, you know, the traditional landowners. So I think we might add that into our email as well.

MR SCOTT: Sure.

MR WILSON: So I understand the site's highly disturbed, I understand that there's unlikely to be any significant artefacts on site but that doesn't mean there's no cultural significance to the site so I just need to understand how that decision's been made. So  
10 we might just add - I think we expect something on that as well.

MR SCOTT: Yeah, that's fine, we can address that.

MR WILSON: All right. So we'll move to flooding because we're conscious of the time.

MR SCOTT: Move to flooding, yep. Yeah. So look, as you would've seen from going out to the site there that essentially the wet - the area that they propose to use for the helipad is at that sort of relative high point around the Penrith Lakes area where the  
20 site sort of slopes down from Old Castlereagh Road down to some of the regatta lake and some of the other lakes on the site. In this case they - the applicant's flooding assessment calculated flood levels for the one per cent AEP, the .2 per cent AEP and .1 per cent AEP events and also the probable maximum flood. It didn't assess any floods more frequent than the one per cent AEP because the part of the site where it's going to be used for the helipad is actually above the one per cent EAP flood level.

It's above the flood planning level for this area. It's actually defined in the set as being the one per cent EAP plus a metre freeboard and they've selected this part of the site because it's not directly affected by flooding, no flooding any more frequent than the  
30 one in 500 year flood. We'd also, I guess, observe that the proposal has, you know, really very little - it doesn't involve substantial kind of built work so changes to topography and so the physical works on the site aren't expected to change any existing sort of floor behaviour beyond that minimal level. The department's conditions do require the applicant to develop more detailed flood evacuation procedures and that's in response to some of the feedback provided by council and Transport for New South Wales and the Environment and Heritage Group of the Department of Planning.

MR WILSON: I note that they need to be reviewed on an ongoing basis as well, is  
40 that correct?

MR SCOTT: That's correct. Yeah, that's correct.

MR WILSON: So look, the bottom line is you're satisfied that the pad which is - it's above the one per cent and it's not going to increase flow across the site, it's not going to impede flow across the site, it's not going to increase flood storage or flood behaviour, yes?

MR SCOTT: Yeah, that's correct.

10 MR WILSON: There was an issue raised by Penrith City Council in relation to the use of their - what was it, their flood management manual to determine the flood characteristics of developing the site. That wasn't used or utilised or - what was the reason - is that - the reason because it's not a residential development? What was the reason for that?

MR SCOTT: I'm just trying to - I saw that comment before, I'm just trying - just get a better understanding of it. I'm just having another look at council's submission just to - - -

20 MR WILSON: That's okay, we can put that down as well.

MR SCOTT: Yeah.

MR WILSON: I think I understand why it hasn't been adopted but council did request it and we'll ask council the same question again so whether or not it's still an issue for them but I think you basically advised in your report that it wasn't necessary because of the minor nature of the development in terms of built form. So we'll follow that up. So if it's not at your fingertips don't worry about it, we'll follow it up from Penrith Council.

30

MR SCOTT: Probably the one comment I can make on that which I can see the council had spoken about the department determining the appropriate flood planning level kind of in accordance with the flood prone land policy and the flood plan development manual so I'm not sure if that's - - -

MR WILSON: Yes, that's what I'm referring to.

MR SCOTT: Okay.

40 MR WILSON: So it is, that's what I'm referring to.

MR SCOTT: Okay. So in this case the SEPP actually defines what the flood plan - what the Penrith Lakes SEPP or what's now the Western Sydney Parkland Project SEPP actually defines the flood planning level as that, you know, one in a hundred year flood plus a three metre freeboard so - and the flooding assessment's demonstrated that the - you know, the helicopter pad and the parts inside that are being used for the proposal sit above that flood planning level.

MR WILSON: Okay. Right. So what you're saying is it's not relevant to your recommendations?

10

MR SCOTT: Yeah, no, not in this case because, you know, perhaps somewhat unusually the relevant planning instrument has actually defined the flood planning level.

MR WILSON: Okay. I got you. All right. Next.

MR SCOTT: The next is really just, you know, essentially a summary which I'm happy to go through - - -

20 MR WILSON: Yes. No, go through.

MR SCOTT: - - - which is really we've recommended approval subject to conditions that, you know, through the course of our assessment while there are a number of key issues that we've considered probably the two central ones are around the permissibility and noise conditions and we're satisfied that it can meet the definition of a helipad subject to those restrictions on public access and the modelling indicates that the proposal will meet the noise criterion and we've recommended operational verification to confirm that and we've just outlined some of the key conditions to just reinforce the acceptability, you know, in response to those issues.

30

MR WILSON: Okay. Just one other question. The flight path that has been identified, they will need to be logged, won't they?

MR SCOTT: They will, yeah.

MR WILSON: Okay. So that will form part of the monitoring regime, it will be the type of - it will be the basic information like time, day, what day, time of the flight take-off, the type of helicopter, which way it took off, east or west, yes? And where it was going, yes?

40

MR SCOTT: Yeah, that's right. Sorry, I'm just scrolling through the conditions we've sent through now because we've required a lot of that information in the Planning Commission.

MR WILSON: Okay. I've skimmed through the Commission's. So on that basis you're happy that compliance can be achieved based on those flight paths and being maintained, yes?

10 MR SCOTT: That's right, yeah, and the plan of management that we've included in the condition - recommended conditions does have details around operating procedures including, you know, flight movements - - -

MR WILSON: Okay. All right.

MR SCOTT: - - - (not transcribable).

MR WILSON: So, I mean, if the Commission feels we need - if we get to that point, we feel the need to beef up that planning management we can make that - we can come back to you, I guess.

20

MR SCOTT: Yeah, absolutely.

MR WILSON: All right. Is there - does - Sheri, do you have anything else?

DR COAKES: No, no, I think I'm good. I think the only other one was around the contamination. Were there any underground tanks - - -

MR WILSON: Yes, that's right.

30 DR COAKES: - - - located on the site?

MR SCOTT: Look, from my recollection - I can probably provide some further information on some of those but from my recollection there's been something recorded as being potentially on the site that - that detailed site investigation was to investigate whether, you know, if and where on the site that is and, if so, you know, it and what remediation is required, you know, appropriate to the land use.

DR COAKES: Okay.

40 MR WILSON: That's a good point, Sheri, sorry. And I thought that was one we raised but look, so my understanding there is the possibility of two tanks and a petrol

tank, the potential three tanks? So that's the PSI - DSI is required by condition. So your assumption - as consent authority we need to be satisfied that it's fit for intended use, yes. So what you're saying is the risk is with the applicant if - I mean, the pad's down so do we know where these tanks are? I'm just trying to understand. Because I understand there's no further work now that is likely to disturb the ground or - - -

MR SCOTT: Yeah, that's my understanding too that - - -

MR WILSON: But do we know - so there's no inkling where these tanks might be?

10

MR SCOTT: No, no, nothing specific, no.

MR WILSON: So what will the DSI do? Will it take samples around the pad or - - -

MR SCOTT: Look, I believe that would be the case. I mean, we can follow up and sort of investigate (not transcribable).

MR WILSON: Yes. I'm just trying to work out - see, the only works - the irony of it is the only works that could be undertaken now in terms of DSI - sorry, the only works that's going to penetrate the surface, I understand, is probably going to be your monitoring, the DSI so I'm just trying to work out how the DSI will inform the process and what - for instance, if, for instance, they took a sample of soil a hundred metres away which is not going to be utilised what would be the outcome of that?

20

MR SCOTT: In terms of how that would inform or kind of progress the - - -

MR WILSON: Yes. If there's no - - -

MR SCOTT: - - - assessment.

30

MR WILSON: If there's no works associated in that area.

MR SCOTT: What would be the benefit of that. Yeah, look, it's a good question. I would need to take that on notice, I guess, I'm not really informed.

MR WILSON: I guess, you know, under SEPP 55 or whatever it is now, resilience and hazards, we require as a consent authority to be satisfied that it's fit for intended use. You've asked for a DSI, the DSI may have implications or you might require a RAP or something, we're not quite sure now but - so what I'm assuming then is that the department's satisfied that with the PSI basically saying that it's unlikely - it's likely to be fit for its use, yes?

40

MR SCOTT: Yes.

MR WILSON: I don't want to put words into your mouth but you're saying it will put it beyond doubt by doing a DSI and should it throw up any unintended finds like these tanks then they would be remediated, yes?

MR SCOTT: Yeah. Sorry, the PSI, just to - the PSI would suggest - noted that there was a possibility that these tanks would be underground and recommended that a DSI is undertaken to confirm or otherwise whether those tanks are - - -

MR WILSON: Okay. I'd be interested to know what the DSI - yes, anyway. So the DSI will confirm whether the tanks are there or not and whether they need to be remediated by way of a RAP site order process and so forth.

MR SCOTT: Yeah, that's correct.

MR WILSON: Notwithstanding you're satisfied even if that occurs it's fit for use as a helicopter site, is that basically what you're saying?

MR SCOTT: Yeah, or can be made so subject to - - -

MR WILSON: Can be made so.

MR SCOTT: - - - the kind of conditions requiring mediation and site audit saying it's - - -

MR WILSON: Okay. All right. I don't have anything else. Sheri?

DR COAKES: No, I'm all good.

MR WILSON: Casey? Courtney? All right. Alan?

MR BRIGHT: No, all good. We'll wait for your advice and your further clarifications.

MR WILSON: Yes, I think it's just those - I'm happy with the flood answer at this stage subject to our further reading and so forth and discussion with Penrith Council. So there's just those issues on contamination and noise and hours of operation.

MR BRIGHT: Yep. Okay.

MR WILSON: Yes. Okay. All right. Thank you very much. Appreciate your time.

MR BRIGHT: Yes, thank you too. Thank you, Chris. Thanks, Sheri.

MR WILSON: Thank you everyone.

**MEETING CONCLUDED**