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TRANSCRIPT OF PROCEEDINGS

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INDEPENDENT PLANNING COMMISSION

MEETING WITH DEPARTMENT OF PLANNING, INDUSTRY AND ENVIRONMENT

RE: NORDS WHARF CONCEPT PLAN

PANEL: **CHRIS WILSON**
 STEPHEN O'CONNOR
 WENDY LEWIN

ASSISTING PANEL: **CASEY JOSHUA**

DEPARTMENT OF **BRENDON ROBERTS**
PLANNING, **EMMA BUTCHER**
INDUSTRY AND
ENVIRONMENT:

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

DATE: **9.37 AM, 4 FEBRUARY 2020**

MR WILSON: Before we begin, I would like to acknowledge the traditional custodians of the land on which we meet. I would also like to pay my respects to their elders, past and present, and to the elders of other communities who may be here today. Welcome to the meeting today to discuss MOD 1, the Nords Wharf
5 concept plan. My name is Chris Wilson and I am the chair of this panel. Joining me are my fellow commissioners, Stephen O'Connor and Wendy Lewin. Casey Joshua is also here from the Secretariat.

10 In the interests of openness and transparency and to ensure the full capture of information, today's meeting has been recorded and a full transcript will be produced and made available on the commission's website. This meeting is one part of the commission's decision-making process. It's taking place at a preliminary stage of this process and will form one of several sources of information upon which the
15 commission will base its decision.

It is important for the commissioners to ask questions of attendees and to clarify issues whenever we consider it appropriate. If you are asked a question and are not in a position to answer, please feel free to take the question on notice and provide any additional information in writing which you will then put on our website. I
20 request that all members here today to 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 transcript. We will now begin. So, Brendon, I guess it's, to start off with, just running through the agenda, we could – well, we'll do introductions for the tape.

25 MR ROBERTS: Sure.

MR WILSON: Chris Wilson, chair.

30 MR O'CONNOR: Steve O'Connor, commissioner.

MS LEWIN: Wendy Lewin, commissioner.

35 MR ROBERTS: My name's Brendon Roberts. I'm the Acting Director of Regional assessments for the Department of Planning.

MS BUTCHER: And Emma Butcher, planner in the regional assessments team.

40 MS JOSHUA: I'm Casey Joshua from the Secretariat.

MR WILSON: Okay, Brendon, over to you. I guess we'd like just a brief overview of the key issues that were raised in the assessment report.

45 MR ROBERTS: Sure. So the application before us is a request to modify the concept approval for the Nords Wharf residential subdivision. The application has

evolved through the assessment process a little bit. That's summarise in our assessment report under section 2.2. There's a table summarising how the proposal has changed in response to submissions.

5

The proposal as assessed, as finalised, seeks to increase the number of lots from 90 to 96 in a slightly amended road layout, modify the requirements for intersection upgrades at the junctions of the Pacific Highway and Awabakal Drive and at the Pacific Highway and Nords Wharf Road, we'll go into the actual specific changes in a little bit in detail.

10

MR WILSON: Sure.

MR ROBERTS: The application also seeks to reduce the required \$1 million commitment by the applicant, seeks to reduce that to \$415,000, and to modify their statement of commitments and VPA to remove a requirement for bank guarantees.

15

The application was exhibited for 28 days back in 2017. The department received 152 public submissions, all of which were objecting to the application. The objection – the nature of the objections largely around increased traffic, impact on local roads, additional pressures on infrastructure and services and the removal of the \$1 million contribution.

20

The department's assessments largely focuses on three key planning issues. The first one is in relation to the – the intersection changes. Um, we've got a plan, a diagram, showing exactly what the change is seeking to do. So this is the intersection with Pacific Highway and Awabakal Drive. It's currently approved to be an upgrade to signalise seagull intersection, the applicant seeking to propose it to change it to a left in and left out intersection. This is the intersection with Pacific Highway and Nords Wharf Road. It's currently a unsignalised T-intersection. There's no proposals to change that. The applicant's seeking to propose it to a signalised seagull intersection. The department considered that the – the changes to the intersection would not necessarily represent orderly development of land in accordance with objective C of the EP and A Act largely due to the number of public submissions that were received, impacts on the local roads, the effect of the changes that anybody living towards the south of Nords Wharf, including those people in the new subdivision, for them to travel south along Pacific Highway, they'd first need to travel north - - -

25

30

35

40 MR WILSON: Yep.

MR ROBERTS: - - - through the – through the existing community and then down Pacific Highway where we considered that the currently approved layout would allow anybody to travel north or south from each intersection.

45

In making this decision, we note that that was council's preference, that was also Transport for New South Wales' preference and RMS pretty much said to us that

either option is okay for them and they were largely looking at, um, performance of – of these intersections. The local community were pretty much, as I mentioned earlier, concerned about the impact on the main through road through the existing neighbourhood which is Government Road and the impact associated with additional traffic, safety and sheer numbers of cars.

MR O'CONNOR: And the additional travel time, yes?

MR ROBERTS: Yes.

MR WILSON: Do you mind pointing out where the school is? I got noted in the submissions you talk about the school. Do you know where the school is in relation to that plan?

MS BUTCHER: I have to check exactly.

MR ROBERTS: Yeah.

MS BUTCHER: I have been on-site and driven past and I think it's mid-way up Government Road. I think we have to check exactly the location.

MR WILSON: Okay. Thanks.

MR ROBERTS: That's the first one we can take on notice.

MR O'CONNOR: So, Brendon, my understanding is the rationale behind the applicant, and we'll ask them the question, obviously, is because the – it is more cost efficient to provide those works at the Nords Wharf Road/Pacific Highway enter seconds because there's more space, is that correct?

MR ROBERTS: That's – that's our understanding that a lot of the justification is based on cost efficiency.

MR O'CONNOR: Okay. But we don't have those figures? Do we have – do we know what the cost of upgrading the Nords Wharf/Pacific Highway intersection is as opposed to providing what's required down at - - -

MR WILSON: Awabakal Drive.

MR O'CONNOR: Awabakal.

MR ROBERTS: Awabakal. I'm not aware of us having that level of detail.

MR O'CONNOR: Okay. All right.

MR ROBERTS: We don't normally - - -

MR O'CONNOR: That's okay.

MR ROBERTS: - - - go into that level of detail in terms of – we kind of look at more what's the best outcome in terms of kind of the planning - - -

5

MR O'CONNOR: Sure.

MR ROBERTS: - - - you know, for the legal community. And then moving on to the – another part of the proposal that we didn't support was the removal or the reduction of the \$1 million contribution. It's useful to note that this is not necessarily a development contribution in accordance with any section 97 plan or any VPA. It's a commitment by the applicant who, at the time of the original concept approval, was Coal & Allied. They had several land holdings in the area that they were transitioning from mining sites to residential subdivisions and they made a commitment of \$5 million for the – for all of those, of which one million would be allocated to Nords Wharf. It was a financial contribution to the local community, for them to spend on local social infrastructure type things and it was over and above the – the – the development contribution.

20 MR O'CONNOR: Can I – just on that.

MR ROBERTS: Yes.

MR O'CONNOR: Can I just ask a question in relation to Middle Camp and Gwandalan?

MR ROBERTS: Yep.

MR O'CONNOR: Have they commenced? Have they – has those release areas been developed and whether or not has there been any change to the sums that were – because it was spread out. I understand the five million was covered the three different - - -

MR ROBERTS: That's right, yeah, yeah.

35

MR O'CONNOR: So it would be nice if we understood whether they still stand and whether they are still required.

MR ROBERTS: Okay. I can - - -

40

MR O'CONNOR: And whether there's been any change to those contributions as well.

MR ROBERTS: Sure. We can come back on that.

45

MR O'CONNOR: Thanks. Sorry to interrupt.

MR ROBERTS: That's okay. It's a good question.

MR O'CONNOR: I forget otherwise.

5 MR ROBERTS: So our reasoning behind that is largely that the reduction in the contribution kind of went against what the applicant originally proposed in the concept plan and it was very much directed at local people. It would be a local benefit and the department doesn't consider that there's been any other change in circumstances that would warrant that reduction. Council's position was that they –
10 they didn't really have any comments on that part of it. They just wanted a bit of flexibility to be able to spend the money where they could which is why we've recommended a change to the relevant future assessment requirement that gives the council the flexibility.

15 MR WILSON: So the contribution's made to council and they have the government's arrangements in place to – to spend the money, yeah?

MR ROBERTS: They would do and - - -

20 MR WILSON: Prior to the release of the subdivision plan, is that right?

MR ROBERTS: That's right, yeah. So the concept approval and the associated subdivision are largely indicative.

25 MR WILSON: Yeah.

MR ROBERTS: They would be subject to detailed DAs with council and it's at that time of the detailed DAs with council, that a council would negotiate their contributions in accordance with the relevant section 94 contributions plan at the
30 time and be – lock in a mechanism with the applicant to deliver the \$1 million or whatever that contribution might be.

MS LEWIN: All right.

35 MR WILSON: Okay.

MS LEWIN: Thanks.

MR ROBERTS: The department's largely comfortable with the slight increase in
40 residential lots and the amended road layout. The department considers that it's a more logical layout and the provision of a perimeter road and the fact that RFS and BCD and all of the major State agencies, including council and the local community, didn't really raise the amended layout as a big issue in their submissions.

45 The department's assessment report sets out a few other issues which we've considered. I won't go into those in any detail other than to point you to them in the assessment report where they're quite clearly articulated.

MR WILSON: Okay. Do you - - -

MS LEWIN: No, I don't. I just noted from your assessment report and the mapping
5 that it's not truly a perimeter road for the whole development, that there is that gated
access for RFS. Has that - - -

MR ROBERTS: That's correct.

MS LEWIN: - - - had any further – is there any further comment from community
10 or council that we should be aware of since your report, in relation to fire access and
.....

MR ROBERTS: We haven't received – we haven't received anything from the
community or council since our report. That the issue of that road is assessed in
15 detail under 6.4 under bushfire hazard under the sub-heading "Perimeter road".

MS LEWIN: Yes. Right, yes.

MR ROBERTS: Where we – we acknowledge that there's a slight difference of
20 opinion between council and the RFS. Council – the RFS would prefer that that
perimeter road goes through and connects to government – that Government Road
intersection.

MS LEWIN: Yes.
25

MR ROBERTS: Council would prefer it didn't. Our assessment report
acknowledges that there's an opportunity there for A4 council and RFS to agree the
outcome through the detailed design - - -

30 MS LEWIN: Yes.

MR ROBERTS: - - - but also that there could be some form of emergency access or
something like that that would - - -

35 MS LEWIN: Yes.

MR ROBERTS: - - - accommodate both options, really.

MS LEWIN: Okay. Thanks.
40

MR WILSON: Steve?

MR O'CONNOR: Um, yeah, I've got a few questions. But maybe we should start
45 with the list of 10 questions we've given the department and by the time they've
answered
those - - -

MR WILSON:

MR O'CONNOR: - - - all mine might disappear.

5 MR WILSON: Okay.

MR O'CONNOR: Is that fine with you, Brendon?

10 MR ROBERTS: Yes. Hopefully I've answered some of your questions during my initial presentation, so I'm happy to run through the questions and for you to tell us which ones you need answers to.

15 MR O'CONNOR: All 10. So, the first one relates to the department's consideration of the EPIs and development control plans and the assessment of the MOD. In your report, there's a very short section just stating that you had considered those. We wondered if there was anything more detailed.

20 MR ROBERTS: Yes. So our assessment report in section 4.3 considers environmental planning instruments and it considers the EPIs that were considered in the assessment of the original application and it looks at the extent to which the modification might change that assessment and we've considered them largely with modifications of this nature, we would do that as a desktop exercise. And we decided that the modification additional six lots, slight reconfiguration of the road layout and no – there was no additional clearing, there was no additional kind of land
25 that would be taken up by an increased size. All the additional six lots were accommodated within the existing building – the residential area. So we decided – we noted that the modification remains consistent with those EPIs.

30 The department's assessment report itself also considers the proposal against the Lake Macquarie LEP and in particular on page 21 where the assessment report notes that the subdivision controls in terms of the lot width and size, um, um, are consistent with the Lake Macquarie LEP provisions. Um, the department also considered council's DCP in part 8 or – sorry, considered council's DCP in relation to the amended layout, considered part 8 section 3.6 of the DCP and those two elements are
35 set out in our – in the assessment section of the report.

40 MR WILSON: So, in effect, when it comes to, you know, 71 or 55, et cetera, I couldn't find any – you've listed that you've assessed it against that but I couldn't find any reference to it.

MR ROBERTS: We conclude at the bottom.

MR WILSON: Yeah, yeah.

45 MR ROBERTS: Yeah, as I said, it's a bit of a - - -

MR WILSON: It's fine for you to conclude but there's no - - -

MR ROBERTS: There's no - - -

MR WILSON: There's no evidence to support those conclusions, is there?

5 MR ROBERTS: That's – that's – that's a desktop. We have a look at the application, we have a look at the applicant's justification and that's our conclusion. Um - - -

10 MR WILSON: I've often seen the department's reports where they have an appendix where they have a – they have a table - - -

MR ROBERTS: Yes, yes.

15 MR WILSON: - - - that just - - -

MR ROBERTS: Yes, yes, yes.

MR WILSON: - - - runs through what they've looked at - - -

20 MR ROBERTS: Yes.

MR WILSON: - - - but there didn't seem to be anything like that in this report.

25 MR ROBERTS: No, that's correct. And a lot of the time it's based on if there is an issue that needs to be considered, then we would do that in a table at the end.

MR O'CONNOR: So what you're saying it's based on the scale of the changes, is it, or the nature of the changes, more or less?

30 MR ROBERTS: That's right.

MR O'CONNOR: So if - - -

35 MR ROBERTS: Based on the scale of the nature of the change, we're comfortable that it's still consistent with the relevant EPIs. We didn't feel that we needed to go into a full assessment against one of the EPIs as an appendix for this particular application.

40 MR O'CONNOR: Could you – and we may as well just go through these questions.

MR ROBERTS: Yeah.

45 MR O'CONNOR: And then – so we'll move on to number 2. So we understand that the first subdivision is – well, there's an application that was provided to council which is on hold.

MR ROBERTS: Yep. Yep.

MR O'CONNOR: So you have these documents, then? They were provided to the department?

MR ROBERTS: So the department has no record of condition 1.10 in relation to the
5 urban design guidelines and in relation to future assessment requirement 1.13 in
relation to the staging plan being satisfied. The landscape management plan, so
that's what's required under future assessment 1.12, is not required to be provided to
the department. The department understands that these documents were provided to
council as part of DA – the DA with council.

10 MR O'CONNOR: Okay. Yep. Okay.

MR ROBERTS: Um, at this stage – our assessment report notes that the staging
plan, as that relates to the \$1 million commitment, that the staging plan, um – yeah, it
15 was provided to council and it is considered in the department's assessment report.

MR O'CONNOR: So the bottom line is, though, that these – these – these matters
will need to be provided prior to them going back and seeking – 'cause I presume
their application will need to be modified that's before council.

20 MR ROBERTS: That's – yeah, that's correct, yeah, yeah, yeah.

MR O'CONNOR: And that these matters may need to be updated - - -

25 MR ROBERTS: That's correct. That's correct.

MR O'CONNOR: - - - and be – okay.

MR ROBERTS: Our assessment and as a result of the amended road layout updates
30 condition 1.10 in relation to the urban design guideline so - - -

MR O'CONNOR: Yeah.

MR ROBERTS: - - - for us it's not a big issue that these conditions weren't
35 satisfied or at least condition 1.10 would usually have been satisfied before they
lodged the first DA because that condition needs to be updated anyway so they will
still need to satisfy that condition - - -

MR O'CONNOR: That's right. Yes.
40

MR ROBERTS: - - - at some point in the future.

MR O'CONNOR: So the third one relates to the new roads. If you just give us a
brief rundown of your consideration of those roads. I think there's a couple of extra
45 additional roads, isn't there?

MS BUTCHER: Yes. So paragraph 2.1.1 of our assessment report notes that the proposal seeks approval to increase the number of lights and also to modify the internal road layout. So the approved and proposed layout is shown on page 6 of our assessment report.

5

MR O'CONNOR: Yeah.

MS BUTCHER: So we note that council raised no concerns about the new road layout and the changes to the subdivision layout, including the roads, are assessed in paragraph 6.5.1 which sets out the department's reasons for supporting the layout and it notes that the layout is indicative only and it will be finalised as part of future DAs with council.

10 In addition, paragraph 6.4.2 to 6.4.6 of the assessment report, as we talked about earlier, consider the proposed cul-de-sac near Government Road so the assessment notes that disagreement between council and our treatment of this road and recommends that this be resolved by council during the detail design stage. There's an overview – an overview of our consideration of the changes to the road layout.

15 MR O'CONNOR: One of the issues that – so the DA that's with council, so this is indicative only, yeah?

MS BUTCHER: Mmm. Yeah.

20 MR O'CONNOR: The reason that the DA is on hold is because it needs to be consistent with concept plan.

MR ROBERTS: Yeah.

30 MR O'CONNOR: At what stage does indicative become – you understand what I'm asking?

MR ROBERTS: I understand the question, yes.

35 MR O'CONNOR: Yeah. So if it's indicative only and they lodge an application with council that's somewhat different than the - - -

MR ROBERTS: That's right.

40 MR O'CONNOR: - - - indicative layout - - -

MR ROBERTS: So the applicant - - -

45 MR O'CONNOR: - - - are they required to come back and modify again.

MR ROBERTS: Potentially. The – so the DA with council – council has approved a subdivision layout on the site for 84 units – 84 lots.

MR O'CONNOR: Yeah.

MR ROBERTS: And the modification that – the application that's currently on hold is a modification to increase that.

5 MR O'CONNOR: To 96.

MR ROBERTS: To 96. I think it might have been to a hundred.

10 MS BUTCHER: I think it's a 101 based - - -

MR ROBERTS: To 101. That's right.

MS BUTCHER: - - - on the original concept.

15 MR O'CONNOR: Okay.

MR ROBERTS: So the original – the original MOD was for a 101.

20 MR O'CONNOR: Okay.

MR ROBERTS: So the modification with council that's currently on hold - - -

MR O'CONNOR: Okay.

25 MR ROBERTS: - - - is seeking to increase the number of lots. So – well, those - - -

MR O'CONNOR: I got you. Okay.

30 MR ROBERTS: - - - parameters are set by the concept approval.

MR O'CONNOR: Yeah.

MR ROBERTS: The specific plan - - -

35 MR O'CONNOR: Yeah.

MR ROBERTS: - - - the subdivision plan, is indicative only.

40 MR O'CONNOR: Yeah. Okay. All right. Is there any more questions on the roads?

MS LEWIN: No, I'm fine.

45 MR WILSON:

MR O'CONNOR: Can you just point – there's a number of lots that are community title. I think it's 303 to 306 or something. Where are those ones? They're on the – they're on the western side, aren't they?

5 MR WILSON: I wasn't aware there were any community title lots.

MS BUTCHER: I think that they – no, I think there initially was and then throughout the process - - -

10 MR O'CONNOR: Oh, it's gone.

MR WILSON: Gone. Okay.

MS BUTCHER: - - - council raised concerns and they've removed that.
15

MR O'CONNOR: Okay. All right.

MS BUTCHER: Yeah, and probably the lot numbers have changed throughout the
- - -
20

MR O'CONNOR: Okay. All right.

MS BUTCHER: - - - different plans.

25 MS LEWIN: Yes.

MR O'CONNOR: Thank you.

MS BUTCHER: There's probably an updated reference there.
30

MR O'CONNOR: Clears that up as well. So next is in relation to the reduced width of the Branter Road landscape buffer.

MS BUTCHER: So paragraph 6.5.1, so pages 22 and 23 of our assessment report
35 look at this issue in detail. So the proposal seeks to reduce the buffer from 10 metres to four metres. The department - - -

MR WILSON: Can you just show us by referring to a plan where those
measurements - - -
40

MR O'CONNOR: Yeah - - -

MR WILSON: - - - are 'cause I understand the logic. I just want to see it on how
it's done.
45

MS BUTCHER: Yeah. This is the – right, so. So we talk about the measurements in our assessment report. So basically, at the moment, as proposed, the buffer consists of a 10.3-metre-wide road reserve.

5

MR O'CONNOR: Yeah.

MS BUTCHER: 2.5 metres of this is a footpath and then there's 7.8 metres left for planting.

10

MR O'CONNOR: Yep.

MS BUTCHER: So you can see that. So some of that planting they'll try and retain existing vegetation and then the rest of it will be new planting. So we support this change. We think it's consistent with the original approval. It would still maintain that space for planting but also the provision of a footpath. We also note that the overall distance for the purpose of the buffer was to screen the new development from the - - -

15

20 MR O'CONNOR: Yes.

MS BUTCHER: - - - existing residences. So even with the changes to the buffer, there's still an 18.3-metre-wide distance between - - -

25 MR O'CONNOR: So it's sufficient – there's sufficient land to plant out and screen - - -

MS BUTCHER: Yes.

30 MR O'CONNOR: - - - visually screen the development.

MS BUTCHER: Yes. Still 18.3 metres with the eight-metre-wide road and the 10.3-metre-wide road reserve.

35 MR WILSON: So if I understand this, where is the road reserve? Where does it start and finish?

MS BUTCHER: It's the 10.3 metres. So here to here. So 2.5-metre footpath and then - - -

40

MR WILSON: But I thought council said they wouldn't accept planting in the road reserve. They wanted it on the private lots.

MS LEWIN: They won't maintain it.

45

MR WILSON: Yeah. They said they won't maintain it.

MS BUTCHER: Yeah, so it will be – yeah, it will be in the private lots and there'll be a mechanism that the DA - - -

5 MR WILSON: But this doesn't show it's in the private lots. This shows it's in the road reserve. That's the boundary of the road reserve.

MS BUTCHER: But there'll be mechanisms at the DA stage to have it in the private lots and make sure it's managed.

10 MR WILSON: What, to shift that over to here, is that what you're saying?

MR ROBERTS: Yeah. I think originally the – there was a greater set back and council was more concerned with having to maintain that larger area. I think what we're looking at now is an area with a footpath and a couple of street trees. It is, as
15 Emma says, it's ultimately up to council to maintain that or to – to lock in the maintenance arrangements through the assessment of the DA. But it is – the applicant has proposed to reduce that setback so that council does not have to maintain a large area.

20 MR O'CONNOR: So who will maintain it?

MR ROBERTS: It will be maintained by the residents along this – this frontage through
a - - -

25 MR WILSON: So they'll be maintaining vegetation on the council road reserve, is that correct?

MS LEWIN: Public space.

30 MS JOSHUA: No. I think that the lots as proposed in MOD 1 already go up to the edge of the road. That must be based on the previous plan which showed all of the lots outside of the landscape buffer but now - - -

35 MR O'CONNOR: Yeah, okay.

MS JOSHUA: - - - the lots extend through the landscape buffer. So do you think it would be worthwhile putting a condition requiring a restriction on those lots similar to the building envelope?

40 MS BUTCHER: There is existing condition 1.11. So we recommend to retain that and it states the landscape buffer along Branter Road is to be offered for dedication to council. The relevant subdivision application must demonstrate that the future ownership and management arrangements for the landscape buffer have been
45 negotiated with council. Should council not accept this dedication, these areas are to be incorporated into the neighbouring residential lots. So we thought that covered it

and we'd leave it at the DA stage, council could impose the relevant restriction to ensure the management.

MR WILSON: So that's an outdated plan, is that correct?

5

MR ROBERTS: That's – let's confirm that one.

MR O'CONNOR: Yeah. If you come back and confirm that.

10 MR ROBERTS: Yeah.

MR O'CONNOR: In your final response to so when you respond - - -

15 MR ROBERTS: We were relying on the transcript to be our response to all the questions.

MR O'CONNOR: Okay. Well, we'll need a map in relation to that.

20 MR ROBERTS: Yeah, yeah.

MR O'CONNOR: Yeah. And actually how they're going to be – how those lands will be managed. Yes.

25 MR WILSON: Yep. Do you seek further clarification on 5 and 6 in relation to the contributions? So I appreciate 6.

30 MR O'CONNOR: I don't think we need any clarification on 6. In relation to 5 – yeah. In relation to 5, you talked in the report – let me just find it and refer to the right sentence. Yeah. On page 19 section 6.3.7, the last sentence of that paragraph says:

Therefore the removal of the contribution would reduce the community benefits that were considered at the time and the payment of a section 94 contribution would not provide the same benefits.

35

40 So when I look at what those benefits of the \$1 million contribution are, they're spelt out on the previous page, 18, and I looked through what's being provided for the million dollars and it all seems to be parks and footpath extensions, walkways and boat ramps, all sorts of things I'd expect to see in a section 94 or section – 7.11 cover, except for \$25,000 of that million, which is for Aboriginal scholarships in stages 1, 2 and 3. So have you looked at council's contribution plan to see if there is duplication or that these things are all separate and additional because when you say in your report that it's not providing the same facilities, you'd have to do that sort of analysis, wouldn't you?

45

MR ROBERTS: I guess - - -

MR WILSON: I guess what Steve's saying is that – you've said its social instruction but we look at its physical instruction.

5 MR ROBERTS: That's right. But when you actually look on page 18 under figure 9, under the description, it's itemised and, yes, those items are quite – at a very high level and some of them do talk to open space and walkways. But when you look at the description, the open space is a contribution to the local play group, establishment of scholarships, the upgrades to boat facilities, upgrade to the park. Some of those more tangible things - - -

10 MR WILSON: Yeah.

MR ROBERTS: - - - you could probably – might be included in the contributions plan. But we also note that this kind of lists the schedule is, again - - -

15 MR WILSON: Indicative.

MR ROBERTS: - - - indicative. It's more about how council wishes to spend the money at a local level for social infrastructure and it goes – it's – it's – it should be – it should complement the section 94 plan and, you're right. It shouldn't duplicate it. But it is ultimately up to council.

MR WILSON: So you haven't looked at their contributions plan, which that's a question we should put to council.

25 MR ROBERTS: We have at a high level. It is a question for council. We have looked at it at a high level and, you're right. You know, some of the upgrades to local parks and things like that but it would – it would useful to council to give you a table and actually say exactly where they prefer the \$1 million contribution to go. The department, you know, at a high level, notes that these form of financial contributions to regional New South Wales, that's specifically aimed at social infrastructure projects, is quite unique and it's actually a really good thing for the community.

35 MR O'CONNOR: So moving on. Are there any – the VPA as exhibited, does it need to be amended based on your recommendations?

MR ROBERTS: Based on our recommendations, no.

40 MR O'CONNOR: Okay.

MR ROBERTS: Because the VPA currently speaks to the intersection upgrades as approved, not as proposed.

45 MR O'CONNOR: And the bank guarantees, doesn't it? Speak to the bank?

MR ROBERTS: And the VPA speaks to bank guarantees.

MR O'CONNOR: So - - -

MR ROBERTS: The – the modification – the actual consent, the concept approval and the statement of commitments don't speak to bank guarantees. The bank
5 guarantees are in the VPA and the department's considered that amending the VPA by itself is beyond the scope of the modification itself. If they wanted to amend the VPA, then they can do that through deed of variation.

MR O'CONNOR: Right. And 9's a good question. I guess it comes to – if the
10 consent authority wanted to change a statement of commitments, how does it do it? Do we have to write a condition that overrides a statement of condition – statement of commitments? Is that the way the department would do it?

MR ROBERTS: That is a good question. The – in answering that, the department
15 notes that conditions of the concept approval, of any consent, override the statement of commitments to any extent that there's - - -

MR O'CONNOR: Inconsistency.

MR ROBERTS: - - - inconsistency. The department also notes that condition 1.13
20 sets out the requirement for the applicant to pay contributions in accordance with the relevant contributions plan at the time of the assessment. The department's recommended change to the statement of commitments was a way of just aligning the two - - -

MR O'CONNOR: Right.
25

MR ROBERTS: - - - to make sure that they were consistent with each other. And
30 in terms of if there might be a better way of doing it, then that's something that we can take on notice and can come back to you and answer that.

MR O'CONNOR: Well, we just want to know what is the right way to do it - - -

MR ROBERTS: Yes.
35

MR O'CONNOR: - - - if it needs to be done at all.

MR ROBERTS: Yeah.

MR O'CONNOR: My view personally, I think, is that conditions override the
40 statement of commitments and if the consent authority wants to implement something through that consent, then it needs to be clear what that outcome is and the consent – then statement of commitments would fall in line - - -

MR ROBERTS: Yeah.
45

MR O'CONNOR: - - - if they consent.

MR ROBERTS: So you're saying that there's – if the recommended change is clear in condition 1.13, then there's no need to amend the statement of commitments.

MR WILSON: We're not even sure you can amend the statement of commitments.

5

MR O'CONNOR: Yeah, we don't - - -

MR WILSON: It's something the proponent puts together - - -

10 MR O'CONNOR: Yeah.

MR WILSON: - - - saying, "This is what we're prepared to do. You can either accept that" or say "It's not enough and here's the condition that says you've got to do X, Y and Z additionally".

15

MR ROBERTS: Yeah.

MR WILSON: I don't think you can go back and change their statement of commitments.

20

MR O'CONNOR: No. I think you need to put in a condition that completely overrides it.

MR ROBERTS: Yep.

25

MR O'CONNOR: That's my view and - - -

MR ROBERTS: Yep - - -

30 MR O'CONNOR: - - - we'd like – it would be good if the department could confirm that.

MR ROBERTS: We definitely will.

35 MR O'CONNOR: Yeah. That was the questions.

MR WILSON: That was the questions. Right. I think that last question we've already covered.

40 MR O'CONNOR: Yeah.

MR WILSON: We need to ask the council some more questions, I think, to understand - - -

45 MS LEWIN: Yeah.

MR WILSON: - - - that relationship.

MR O'CONNOR: Yep.

MS LEWIN: Yeah.

5 MR O'CONNOR: Do you want to talk about the bushfire guidelines, to? Did we want to ask a question about that?

MR WILSON: In relation to the – my understanding is the new bushfire guidelines that were released in March, is that correct? Does that have any bearing or any
10 impact in terms of the current assessment?

MS BUTCHER: There's a note in our assessment report an issue with the – the perimeter road we're sort of leaving for RFS and council to sort out. So I guess they can decide at the time the requirements.

15 MR O'CONNOR: But in relation to for instance - - -

MS LEWIN: Yes.

20 MR O'CONNOR: It's my understanding they might be more onerous under the - - -

MR ROBERTS: Yeah.

MR O'CONNOR: - - - new guidelines. Does that have an impact on the
25 subdivision?

MR ROBERTS: I note that existing condition 1.24 makes reference to the planning for bushfire protection 2006.

30 MS LEWIN: 2006.

MR ROBERTS: That's right, yeah.

MS LEWIN: So what we'd have to do is - - -
35

MR WILSON: Is the relevant guideline.

MS LEWIN: - - - obviously up-date that to the relevant - - -

40 MR ROBERTS: Is get that updated.

MS LEWIN: - - - guidelines.

MR ROBERTS: Yeah, yeah, yeah.
45

MS LEWIN: But in your opinion and your knowledge of the proposed guidelines for release in March, would that cause for you to have – or the department to have any further consideration on the concept proposed site?

5 MR ROBERTS: To be perfectly honest I'm not aware of the new guidelines.

MS LEWIN: Right.

10 MR ROBERTS: So I would be – I would be going back to the Rural Fire Service and asking them if they have any additional comments based on the potential for that to be updated. For it to be a material planning consideration in the assessment of any DAs, it needs to be in place at the time of the determination and if not, at least exhibited. So that's definitely something we can have another look at.

15 MS LEWIN: Thank you.

MR O'CONNOR: I have another question. The original application concept plan was a controlled action. I'm not quite sure whether it related to Nords Wharf or a dedication of the lands, Middle Camp or Gwandalan, but you might just want to
20 check whether or not they referred it to the Commonwealth.

MR ROBERTS: Okay.

MR O'CONNOR: And whether or not they got a response and that it was or wasn't
25 controlled action. The original one was a controlled action so – but I'm not quite sure why, whether it relates to Nords Wharf or not.

MR ROBERTS: We can come back to you on the specifics of that. I suspect it might have to do with the fact that the original approval was for the 90 lots in the
30 residential area, so I'm referring to figure 2, 90 lots in the residential area, but it also included the creation of 116 hectares of conservation lands.

MR O'CONNOR: Yeah. Yeah. I suspect that's probably it but we just don't know.

35 MR ROBERTS: Yeah. Yeah.

MR O'CONNOR: I haven't seen a referral or anything - - -

MR ROBERTS: Okay.
40

MR O'CONNOR: - - - from the Commonwealth to suggest why it was - - -

MR ROBERTS: Okay.

45 MR O'CONNOR: - - - determined to be a controlled action or the approval.

MR ROBERTS: Yeah.

MR O'CONNOR: It's likely unlikely to be relevant but we should check anyway.

MR ROBERTS: Okay. I'm sure the applicant will have an answer for you on that one, too.

5 MS LEWIN: Okay.

MR WILSON: I don't have any further questions. Do you have some, Wendy?

10 MS LEWIN: No.

MR O'CONNOR: Nothing further from me.

MS LEWIN: No, no.

15 MR WILSON: Casey? All good?

MS JOSHUA: Yeah.

20 MR WILSON: That's it.

MR ROBERTS: Okay.

MR WILSON: Thank you very much for coming in. We really appreciate it.

25 MR ROBERTS: Thank you very much.

MR WILSON: No worries.

30 MS LEWIN: Are we off?

MR WILSON: Off.

35 **RECORDING CONCLUDED** **[10.18 am]**