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TRANSCRIPT OF PROCEEDINGS

TRANSCRIPT IN CONFIDENCE

O/N H-1643780

INDEPENDENT PLANNING COMMISSION

MEETING WITH APPLICANT

RE: 46 FITZROY ST, CARRINGTON - DA 10689

PANEL: CHRIS WILSON

ASSISTING PANEL: LINDSEY BLECHER CASEY JOSHUA

APPLICANT: ANDREW STONE

BEN RAINSFORD BELINDA SINCLAIR CLARE BUTTERFIELD JENNIFER ANDERSON

DAVID MORRIS DIANNE MUNRO SHAUN TAYLOR

1.05 PM, THURSDAY, 13 JANUARY 2022

MR C. WILSON: Before we begin I would 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 Carrington commercial development at 46 Fitzroy Street, Carrington which is currently before the Commission for determination.

The applicant, Port of Newcastle Operations, is seeking approval to construct a commercial building at 46 Fitzroy Street, Carrington. The proposal comprises four levels of office space, café, landscaping, car parking, seating and communal spaces, a waste disposal area, with water tanks and signage. My name is Chris Wilson and I'm the chair of this Commission panel. We are also joined by Lindsey Blecher and Casey Joshua from the office of the Independent Planning Commission.

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 determination. It is important for the Commissioner to ask questions of attendees and to clarify issues whenever it is 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 we will accordingly 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 that they do not speak over the top of each other to ensure accuracy of the transcript. We will now begin. Andrew, I will hand over to you in terms of your initial presentation.

MR A. STONE: Okay. Thanks, guys. Did you want me to step through introductions again? I think really the only person that we've got that has joined us, that wasn't here before, is Shaun Taylor from Ramboll.

MR WILSON: That's fine.

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MR STONE: So in terms of an actual presentation, we haven't actually prepared anything different to what we've shown you in terms of the site visit and the fly through. We anticipated that that would be adequate, so if you wanted to – I've got some architectural – the architectural drawing pack that I can step you through if you like. Alternatively, we can step right into the discussion points.

MR WILSON: Is the architectural detail different to what you showed us in the fly through?

MR STONE: Not really. It's just a drawing pack. It steps you through its sites. It's ---

MR WILSON: How long will it take, Andrew?

MR STONE: Look, it's really just me talking to the drawing pack so - - -

5 MR WILSON: Well, maybe - - -

MR STONE: Take a few moments.

MR WILSON: Yes. Let's do that first and then we will go straight into the remaining parts of the agenda.

MR STONE: Yes, sure. So this is the Fitzroy Street façade. The Thales building off to the right and HI-VIS off to the left. Obviously doesn't show the trees and the like. The existing site, looking at the concrete slab and the grass, the power easement, the car park out the back. This shaded area is the area of the turf cells that we spoke to where it's permeable pavement and the visitor and customer car parking out the front on Fitzroy. The ground floor. So we've got undercover parking, bike racking facilities, end of trip facilities and common area or lobby and male/female and disabled toilets. You've got lift corridor, atrium stairs up to level one. And I will just flick through.

So up on level one you've got the atrium, you've got that break out area and then you've got, same again, common area toilet facilities. You can see here, we've indicated the breakdown of potential tenancies per floor plate and then it's really just a common break up as you move up and down through the floors. We've got three fire stairs. These are the green garden beds as we work up into the higher levels for the break out areas. And then we move up to the plant room. Plant room – this is on the 50 per cent design set. But we have a goods lift that goes all the way up and then we will have mechanical plant and electrical and everything up there and we will also have quite a decent solar array on the rooftop there as well.

MR WILSON: Just while I've got you there, the opportunity for noise emissions from the building, at the rear here – I will just get my bearings straight. Are there balconies along the – that portion of the building which faces on to the main carpark?

MR STONE: So there are small – small balcony here and here.

MR WILSON: I mean – sorry.

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40 MR STONE: Which face – so this is – at the top of the screen is towards Denison Street.

MR WILSON: Yes. Okay. That's here. So – all right. So this is facing the carpark, yes.

MR STONE: The Denison Street carpark, yes, that's right. The large - - -

MR WILSON: Yes.

MR STONE: The large employee parking area.

5 MR WILSON: And this balcony is on each floor, is it, or just – no, it's just the top floor.

MR STONE: It's – this is the top floor.

10 MR WILSON: Yes.

MR STONE: Yes. And they get smaller as you go down. So, see, that's level - - -

MR WILSON: Okay. Yes.

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MR STONE: And then - - -

MR WILSON: Yes. And they're just, like, areas – they're just, like, break out areas, are they, or - - -

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MR STONE: Yes. They're just little terrace areas, glass louvres, some plants and tiled.

MR WILSON: Yes. Okay. So – yes, I'm just looking at those in relation to that residence. Okay. Thanks.

MR STONE: And, look, that's really - - -

MR WILSON: Yes. It's not much, is it.

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MR STONE: Yes. I mean, in terms of adding to what we've already shown you with the fly through and the drone work - - -

- MR WILSON: Yes. Okay. So let's just fly straight into the agenda then. So I guess if you could just talk a little bit to project justification. We had some discussion with the department in terms of I guess I think we accept obviously that this is likely to be port related and we accept that. I'm just wondering, at what stage does you know, do you have a greater understanding of what the demand for this type of development is in this area? Is this likely to be a one-off or would there be demand for similar types of development in the future or is it unlikely?
 - MR STONE: Look, demand has grown. We've got the obviously we've always got the the site next to us is a Thales site. The Thales site is our site and so they're a tenant of ours. And then as you move further south you've got the old Floor Jacks site which is our site as well. This, at the moment, is just treated as a
- Floor Jacks site which is our site as well. This, at the moment, is just treated as a transition piece. It's an optimal development. It's really Port of Newcastle's first one of Port of Newcastle's first commercial developments. We see probably the

majority of the tenants that will go in there might be actually displaced from our existing tenancy pack. So, say for argument's sake, 92 Hill Street, we've got Robert Carr & Associates at that site. We've got a cost planner at that site – or a quantity surveyor at that site. We've also got - - -

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MR WILSON: Where is that site, sorry? Just - - -

MR STONE: Sure. 92 Hill Street is just a little bit further along Cowper Street towards the mouth – towards the main entry to the port.

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MR WILSON: Yes.

MR STONE: So geotechnical and environmental engineer in that building. Cost planner or quantity surveyor in that building and admin facilities for a steel importer in that building as well. Unfortunately the age of the building – it's falling down around them. So we anticipate that some, if not all, of those tenants might be relocated into this facility. We've also had inquiries from – I can't recall their name but it's a large maintenance contractor similar to – if you remember Transport Services and what they used to look like back in the late nineties and 2000s, who provide maintenance services to, you know, port-related industries and housing and commercial-related industries as well. So we do anticipate that it will – there is demand for a development.

MR WILSON: I guess the point I want to make is that we understand there is likely to be demand for this development. Do you think there's going to be demand for similar developments in the future?

MR STONE: We haven't assessed progressing that any further. I wouldn't be surprised whee that fits in in terms of the port's appetite for those developments.

This is really the port's first commercial development of this nature so we really need to roll this out, learnt lessons from that and reassess.

MR WILSON: All right. But you don't see – you certainly don't envisage this becoming a commercial precinct for anything other than port-related development

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MR STONE: Not at this stage, no.

MR WILSON: Which would then have implications for Newcastle CBD.

40 MR STONE: No. Not at this stage.

MR WILSON: You might just want to talk about the consistency of the objectors of the port as well.

45 MR STONE: Okay.

MR WILSON: We went through this with, was it Raven Street. You might want to just run through that.

MR STONE: I probably put it over to Belinda and Shaun - - -

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MR WILSON: Okay.

MR STONE: --- Ramboll to talk to the more articulate aspects of the zoning.

10 MS B. SINCLAIR: Yes, certainly. Are you able to hear me okay?

MR WILSON: Yes.

MR STONE: Yes.

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MS SINCLAIR: Fantastic. I've been having some technical issues recently. So as far as providing for special land uses that are not provided for in other zones, I think the key factor of this site that the port are interested in is that it does provide the piece of land that is close to the port operations but is not detracting from any of the waterside land that is required for the port operations. And it's also appropriately located in that point where there's other commercial land uses however we're not proposing to put, sort of, an industrial land use adjacent to those residential lots. So I think the proximity is the key issue that we're putting forward there.

MR WILSON: You mean this won't compromise the ability to utilise portside land, yes.

MS SINCLAIR: Correct.

30 MR WILSON: Right. Okay. Sorry.

MR STONE: It's really caught between a rock and a hard place. We've got that residential setting adjacent and we're not waterside so we're not looking to try and put mobile harbour cranes on it or anything to that effect or conveyors and industrial sheds. We want to really compliment what's there and in the surrounds and really make it work along with the gentrification of Carrington itself.

MR WILSON: Okay. And you're asking us to accept the argument that – similar to Raven Street – that port-related uses can be – and supportive – complementary to key portside uses, yes. That's what you're saying basically.

MR STONE: Absolutely.

MR WILSON: Absolutely.

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MR STONE: Absolutely.

MR WILSON: All right. So let's move on – I want to move on to – and I've discussed this with the department. I'm trying to understand – and I think you guys proposed the operating hours and it was accepted by the department, I could be wrong. I would like you to talk to that a bit because I'm trying to understand – I understand the residential interface and the need to ensure that the residential amenity is maintained. But I'm just trying to understand why you wouldn't want to be able to visit the facility on the weekend and have the ability to use that facility on the weekend if it didn't impact upon those residential developments.

- MR STONE: I was actually a little bit thrown by this too. I can't recall if we proposed the operating hours but I notice I did notice in the report that the Department of Planning issued they indicated six till six, Monday to Friday, and then it goes on to state:
- 15 However the proposal is expected to attract port-related businesses. Some tenants may operate seven days a week and outside of these hours.

But then in the actual conditions of consent it is quite expressly just stated six till six.

- MS SINCLAIR: So I think just to add to what Andrew has expressed there, we did nominate some, sort of, typical operational hours in the SEE and other documentation however we did also express a desire to have some flexibility around that. I mean, some people, even in standard very standard offices, sort of, have sometimes come in on weekends and that type of thing. Even though the entire office building may not be full, there is still some usage outside of those standard hours. So we did in our comments on the draft condition we did ask for some flexibility to be built into the consent around that however that had not been accommodated, I don't think.
- MR WILSON: So I just need I mean, if you're going to prohibit an office building like this for not operating on the weekend you have to have good reason. I guess I'm trying to understand what that reason might be because I can see just looking at it from an operational perspective you could make it work quite easily without even using the carpark at the rear which is I understood okay. Maybe someone could answer this question. What noise emissions come out of the building nothing else, just the building on the weekend that don't come out during the week, apart from people maybe using the balconies.

MS SINCLAIR:

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MR STONE: Vehicle movements, yes.

MR WILSON: It's vehicle movements. So if you were to keep the boom gate closed, down the side of – and lock the back gate and just use the front carpark or even part of the back carpark, wouldn't that mitigate any impact on the neighbours?

MR STONE: 100 per cent. Yes.

MR WILSON: Look, I'm just – I mean, if you're going to spend \$30 million on a building, you want to be able to utilise that resource as best you can. And if you're doing port-related uses, I would have thought that they would be – some of them would be 24 hours, I don't know, if you've got the water police in there or something like that. You're going to have the need for a 24 hour office. I guess what I'm saying is that we've asked the department a question as to why this has been imposed and what – if there's a or a merit-related issue that has been imposed because I would be open to you coming back with some operational constraints to the rear of the building to ensure that you cannot – people can go in, work on the weekend. I mean, you know, everyone goes to work on the weekend at some stage in their lives to work so – yes. So if you can think about it and come back to us at some – sooner rather than later with how you might be able to operate the building which gives you that flexibility, we would be open to consider that.

15 MR STONE: That would be much appreciated. Yes, absolutely. Okay.

MR WILSON: So that's that. You've talked about the objectives. Vehicle parking, was touched on, I guess, at the virtual site inspection. It might be useful, and I don't know if you can do it, but, again, if you're looking at ways to minimise your impacts on the residents, you might want to stage the filling of that carpark at the rear, ensuring people fill up from the front and work their way to the back. You never know, they may it's just something to think about. You might be able to address it in the operational plan – management plan. I'm not telling you how to characterise your development but I'm just suggesting that, you know, there might be ways to reduce those impacts. In relation to the – and we discussed it quickly and maybe I wasn't listening – in relation to the transformer on the electricity costs - - -

MR STONE: Yes.

30 MR WILSON: ---.....

MR STONE: Yes.

MR WILSON: Are you intending to put it underground if Ausgrid agrees to it. Is that right?

MR STONE: That's yes.

MR WILSON: And there are – is there a technical issue why you may not be able to do that?

MR STONE: Nothing foreseen, as yet.

MR WILSON: Right.

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MR STONE: So we've worked through the first draft design with – well, concept designs with a services consultant, pre-DA, who looked at all the options and they've

said that this is what you do. We've now – since that went in with the DA – that report went in with the DA we've since moved on. We've got – engaged a services consultant – or an HV consultant to progress the design. They've looked at that. There were some constraints around the fuses that are on the boundary at the Thales site but it's not insurmountable. The only thing that I'm really not sure is whether the – and I did touch on it – the LV that jumps across the road is whether that will be – remain on a pole and remain just jumping the road or whether that will be an under bore at the roadside there – pick it up from there.

10 MR WILSON: It would be nice if you could get it underground as well but – yes.

MR STONE: Yes.

MR WILSON: Okay. And just in terms of the interface with that one residence
the department asked you to do some more treatment. What did that entail? Do you remember?

MR STONE: Sorry, say again? The one interface with - - -

20 MR WILSON: Yes. The residential development immediately to the – on the - - -

MR STONE: To the north? That - - -

MR WILSON: Yes.

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MR STONE: --- resident that shares a boundary?

MR WILSON: Yes.

MR STONE: So what we did was we substituted the hard pavement for the permeable pavement which would reduce vehicle traffic noise. We increased the landscape – the width of the landscaping buffer from the fence line - - -

MR WILSON: Okay.

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MR STONE: --- and we increased the size of the vegetation as well. There was one resident who actually requested us to flip the orientation of the development so that it faced Denison Street which would have – we felt would have encroached into the, you know, privacy of that resident's backyard and house and those things, so we

40 – but those are the actions that we've taken.

MR WILSON: Yes. Okay. That's fine. I don't – I mean, maybe we can – look, the other thing is, last time, in relation to Raven Street, we asked you to send us your comments on the draft conditions and you sent us what – your comments to the department and they may or may not have addressed some of those. I guess, in this

department and they may or may not have addressed some of those. I guess, in this instance, I think – and it caused a bit of confusion for us. I was just wondering if you

would be agreeable to provide us with comments on what they provided to us as opposed to what - - -

MR STONE: Yes.

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MR WILSON: --- they provided to you, so we can be a little bit more accurate about the outcome in terms of the conditions ultimately.

MR STONE: Yes, that - - -

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MR WILSON: Is that

MR STONE: Yes. Look, I've already gone through – I've actually got it printed out in front of me the submission that we made to the department and I've gone through that with a highlighter, looking at what they've adopted and what they haven't - - -

MR WILSON: Okay.

MR STONE: --- so I can knock that up in a format that will be reasonably easily interpreted ---

MR WILSON: Okay.

25 MR STONE: --- from yourselves.

MR WILSON: And which are – you might want to just go through and tell us which ones are the outstanding ones that we might want to consider in the meantime.

- MR STONE: The main I guess the main consideration from our perspective is I did touch on it a little bit is we've submitted our development application. Now, the status of the design at DA stage is realistically only 30 or 35 per cent in terms of design maturity.
- 35 MR WILSON: Yes.

MR STONE: While they're waiting on that assessment we've progressed with the works in terms of design. We're now at around 60 per cent maturity. We've actually released a D and C tender to the market. In preparing that design, we've had to adapt some changes. Not significant changes but the way that the conditions have been worded back to us are so prescriptive that we're boxed into a corner. So something, for argument's sake, 172 carparks, we've had to lose two carparks in the parking area for water tanking, for water pumping and coordination of the structure. Not a significant change but our certifier can't actually certify that we've put 172 carparks.

And the response – when we saw that in the initial round from the department, we went back to them and they said, "Sorry, we've already completed our assessment. Raise it with the Commissioner". So that's the main theme, is they've been so prescriptive in their conditions that there have been some instances where we simply don't have room to move whereas typically we would – our certifiers have provided advice on – a change of two carparks, we would normally just certify that and move on whereas this is actually compelling us to resubmit to the department.

MR WILSON: You need to put that to us in writing and we will have to determine whether or not we can address it as a change. Do you have any comment on that, Casey?

MS C. JOSHUA: Yes. I think that any changes to the plans, we will need to liaise with the department again on those because they've performed an assessment on our behalf. So if you are making material changes to the plans, as insignificant as you think they might be, if it changes the plans that we're endorsing – or we're being asked to endorse, we will have to liaise with the department. So the risk that you run is that any kind of – all of those discussions will cause time delays. That's the reality of it. So if you could provide us with a succinct summary of what changes they are and the plans that support those changes and a justification for why they're being proposed, we will have to take it from there.

MR STONE: Yes - - -

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- MR WILSON: It's your call. Either that or you have to if you get approval, you would modify, I presume so look, I think if you did what Casey said then we will take it from there. You know, we're not going to sit around. We've still got a date we've got to get this out. It shouldn't take too long. If those changes are that insignificant then I think that we can possibly address them.
- MR STONE: Yes, that's fine. There's a short list of them. I guess it's something that we never anticipated, had it come out of Newcastle Council or similar. I mean, we can see it in the Department of Planning's response or report to you guys is that it's on a State significant development template and they've I wonder whether that's driven to be that prescriptive but certainly all of the advice that we've had from our certifiers is that usually they have enough room and wriggle room within their gambit to use their discretion in that space.

MR WILSON: Yes.

MR STONE: We will get something across to you that outlines those changes and go from there.

MR WILSON: All right. So that's the main one again, you're concerned about the prescriptive nature. Can we talk about the one about – I would be interested to hear your comments on condition – not hours – we've already discussed hours of operation but it's E46.

MR STONE: E46, was it? E for echo?

MR WILSON: Yes.

5 MR STONE: Just a moment.

MR WILSON: We're here now, we may as well talk about it. Now, I just highlight my concern with that is that if you draft up an OEMP and then identify a whole lot of uses in there that are quasi-permissible, that's just going to change over time and it's just going to constrain you again. I mean, port-related uses, I presume, will change as technology changes, as everything changes. So, I mean, is that something that — I'm just trying — what is your view on that condition and the way it's drafted?

MR STONE: Rather it not be there, to be honest.

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MR WILSON: I knew you would say that. I guess, the way we're looking at it is that it – they're asking you to draft up a list of permissible occupiers, yes. But what happens when someone comes along who might be port-related and is not on the list? I'm just not quite sure. I mean, I'm not trying to do the argument for you but I would say, is this necessary is it – is it simply necessary to say that they shall report related uses?

MR STONE: Well, yes, look, that's absolutely the preference and that's what we saw in the Raven Street development.

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MR WILSON: So would you be happy -I mean, would you be amenable to us, in the description of the proposal up the front, like we did in Raven Street, is we said that the use was for - - -

30 MR STONE: For port - - -

MR WILSON: --- commercial building for port-related uses café, blah, blah, blah.

35 MR STONE: Look, I would have to defer that back to Jennifer and Diane.

MR WILSON:

MR STONE: But, yes, you're 100 per cent right, is that in 50 years a port-related use might look very different. I wouldn't want to seek to define what a port-related use is in this instrument in any way.

MR S. TAYLOR: And I just add to that, Andrew, I guess the fact that the department, in the various steps, don't define port-related uses, probably reflects that as well. I think that's – it's a very valid point you raise

MR WILSON: Well, we're trying to be consistent, I guess. We were the ones who worked on the approval for Raven Street and the way we dealt with it was to put it up front in the description of the development and we want to try and be consistent, that's all. That's what we're thinking, so if you have anything further to add to that, we would appreciate it as well.

MR STONE: Yes, okay. Okay.

MR WILSON: Yes. Sorry

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MR STONE: We will take that offline and we will come back to you.

MR WILSON: Okay. So is there anything else in there that is – there's no real showstoppers?

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MR STONE: Look, you know, going back to the carparking example, we've got the same issue with building height and gross floor area but we will table them with you just the same. There's no real showstoppers. It's really touching on my comments before is that they've asked us for green travel plans, they've asked us for operational management plans, they've asked us for a string of things that we just didn't anticipate that we would see on a four storey commercial development in Carrington. It's not a State significant development. They're asking us for maintaining websites and those sorts of things for the development which are just not normal.

MR WILSON: Look, I tend to agree with you. One that I picked up on was the – is the independent audit reports. I mean, I'm unsure where independent audit reports are done for commercial development but, I mean, they're more – they're more focused on polluting developments developments. But anyway, look, we will address that but, yes, please put it in writing there.

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MR STONE: So, individually, each one of those, on their own, I would just comply with but when you add them all together it's a significant sum of works.

MR WILSON: Yes. I to that.

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MR STONE: Yes.

MR WILSON: There's a lot of management plans in there.

40 MR STONE: Yes. Yes.

MR WILSON: Okay. Casey, Lindsey, anything else?

MR L. BLECHER: Nothing from me, thanks, Chris.

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MS JOSHUA: Nothing, thanks.

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

MR STONE: No. No. I feel like it's a really good development, if I'm to beat the drum. It's in a really good position in terms of transitioning between that residential space and the commercial and industrial space. You've got the Wickham precinct just across the bridge. I think it's really suited to the site and it will become a parallel contribution to Carrington as it goes through its gentrification phase.

MR WILSON: Okay. Casey, what were the key items dealt with was going to come back with on the conditions.

MS JOSHUA: Yes, including the hours of operation, provide a response to the recommended conditions made by the department, if there's any residual comments that you have which it sounds like there will be. Just more on whether – on the description of the – or how to capture the port-related uses, whether that's in E46 or captured in the description. That's all I had.

MR WILSON: Okay.

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20 MS JOSHUA: Lindsey, did you have anything else?

MR BLECHER: No, nothing further, thanks.

MR WILSON: All good. Okay. So as soon as you can. Yes. So we're meeting – okay. Just where we're up to, we've met the department, we've met and done virtual, we've met you. So we've got council on Tuesday so, yes. So as soon as you can get that information to us, particularly if there's those changes because we might raise them with council - - -

30 MR STONE: Yes, sure.

MR WILSON: --- if need be, so if you get that to us as soon as possible. But, you know, two less spaces when you're – how many over?

35 MR STONE: 170 versus 120 something.

MR WILSON: Yes. So - yes. Okay. So - - -

MR STONE: To be honest, actually council, in the undertones of their responses to the development, were lobbying for less - - -

MR WILSON: Yes.

MR STONE: --- because it would promote alternative modes of transport although the residents are promoting – advocating for more because it would mean less people parking on the street.

MR WILSON: From a practical perspective, two less spaces in relation to the parking issue out the back is - - -

MR STONE: No.

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MR WILSON: --- not going to have an impact – well, in my view ---

MR STONE: No.

MR WILSON: --- but we need to make sure of that. So we will have to discuss it with the department and I need to make sure that we get the process right and, if we are to accept those changes, we need to make sure we've got the right process.

MR STONE: Yes.

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MR WILSON: All good. So, look, I really appreciate – sorry to stuff you around this morning and I appreciate your time.

MR STONE: Very good. Thanks for your time, Chris.

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MR WILSON: No worries. Cheers. Thank you everybody.

MR STONE: Thanks, guys.

25 MS SINCLAIR: Thanks, everyone.

MR TAYLOR: Thank you.

30 RECORDING CONCLUDED

[1.39 pm]