

Response to Questions on Notice received from Ms Erica van den Honert, Executive Director, Infrastructure Assessments, Planning and Assessment following the public hearing held on 7 May 2021

Question:

The CHAIR: Have you had anything put in front of you that says that there is a business case for being sub-24 hours?

Ms VAN DEN HONERT: I am aware of that. I am aware of sub-24 hours. I am aware of the business case it is in.

The CHAIR: Are you aware of a business case?

Ms VAN DEN HONERT: I will take that on notice and exact what the details are of the business case and get back to you on that one. (p32)

Response:

The business case is publicly available at <https://inlandrail.artc.com.au/inland-rail-program-business-case-2015/>

Question:

The CHAIR: Even though at the end of the day it reflects back on government as to landholders concerns around the process from the planning point of view, we just step back and leave the ARTC to engage in that.

Ms VAN DEN HONERT: That is the process.

...

Ms VAN DEN HONERT: Having said that, anybody can contact the department at any stage about anything at any stage in the process.

The CHAIR: Sure. Do we let the community know that?

Ms VAN DEN HONERT: I will take that one on notice. (p33)

Response:

The Department's Major Projects website includes information about the State Significant Infrastructure assessment process, including how to make submissions. It also includes the project's officer's direct phone number at all stages of the process, from application lodgement to after project determination. Community are aware they can contact the Department any time to discuss the project, and they often do.

Department officers engage Local Aboriginal Land Councils, affected landowners and Municipal Councils affected by the project and have undertaken numerous site visits, which include meeting with these stakeholders. Department officers also routinely attend proponents' community engagement sessions that are held during projects' public exhibition to explain the planning process and how community members can get involved. In the case of recent Inland Rail projects, staff attended Community Consultation Committee meetings and community information sessions to explain the SSI process. Due to Covid restrictions in mid-2020, some of these were held online.

Question:

Mr CLAYTON BARR: Thank you, Ms van den Honert, Mr Lunn and Mr Hanger, for being available this afternoon. I am listening to the presentation right now, and my colleagues are doing a terrific job of expressing what we have been hearing from the community, and I am still unclear and unsure as to who makes decisions and who has power or authority or control. Can I just ask this: Can Planning say no? That is the first question.

Ms VAN DEN HONERT: I will—

...

Ms VAN DEN HONERT: It is a question for Planning. I will take that on notice given that it is a Federal project (p34).

Response:

The Department's assessment and Minister for Planning and Public Spaces' determination are of the environmental impacts of the SSI project that's presented to us.

The Minister for Planning and Public Spaces is the determining authority for the Inland Rail State Significant Infrastructure projects. The Department can recommend that the Minister refuses a project should it consider that the project's environmental impacts are not acceptable.

Question:

Mr CLAYTON BARR: ARTC might be responding to Jane Citizen or Joe Citizen; that comes back to the department as well or that goes directly to Joe or Jane?

Ms VAN DEN HONERT: No. It comes back to the department in the response to submissions, and the response to submissions report is also made publicly available.

Mr CLAYTON BARR: So if Joe or Jane Citizen raise a particular concern, that comes back to the New South Wales department. Does the New South Wales department pass that on to Joe and Jane Citizen for their consideration and maybe response?

Ms VAN DEN HONERT: I will take that one on notice. Generally the responses will go into the response to submissions, which is made publicly available. So that document is made publicly available and anybody can read the response to submissions and then make further comments to the department if they so wish (p34).

Response:

The Response to Submissions report is made publicly available on the Major Projects website. When making a submission, members of the public can opt to subscribe to automatic updates for the project. People who choose to subscribe are automatically notified when the Response to Submissions report is made publicly available. The Department will consider comments received on the Response to Submissions report.

Question:

Ms VAN DEN HONERT: Sorry, is your question: If we do not know the answers to everything in the environmental impact assessment stage, what do we do?

Mr DAVID HARRIS: You condition them. What happens is you condition them, but that does not necessarily result in the community having a safe feeling that what is being put forward will actually work.

Ms VAN DEN HONERT: We can condition to say that there needs to be ongoing work or negotiation or discussion or further detailed design once, for example—

Mr DAVID HARRIS: There are also conditions—and I have seen them put in place—that just say, "We are just going to do ongoing monitoring." That is fine except if your property has been flooded or something because of the work that is being done, and it goes back to liability. I am just worried that if what we are hearing about the hydrology of the area from some of the councils and the community is correct, there could be some pretty significant problems that have to be addressed down the track.

Ms VAN DEN HONERT: I will take the exact wording of the conditions on notice because normally if there is monitoring it is linked to further action, depending upon the results of that monitoring. But I am happy to take that on notice and go and look at some of the conditions on the previous projects and get back to you on that (p39).

Response:

Conditions can require further consideration of a projects' impacts during detailed design, and include monitoring requirements which can trigger corrective actions should acceptable impacts be exceeded. The most recent Inland Rail approval, Narrabri to North Star Phase 1, had the following monitoring conditions:

- Condition C14 requires Construction Monitoring Programs and Condition C15 set the requirements for these. C15(h) requires procedures to identify and implement additional mitigation measures where results of monitoring are unsatisfactory
- Condition E16 requires an Operational Noise Compliance Report to compare operational noise modelling with actual noise levels. E16(f) requires additional mitigation measures if noise levels exceed rail noise guideline levels
- Condition E28 requires a Flood Design Verification Report to confirm the project will meet its Quantitative Design Limits. E28(f) requires the report to outline mitigation measures to be agreed with landowners if updated flood modelling shows exceedances of the QDLs
- Condition E32 requires a Flood Review Report after the project's construction to compare modelling with actual flooding events. E32(c) requires rectification measures if the project is found to cause greater flooding impacts than the modelling predicted

Question:

Mr CLAYTON BARR: ... I have dealt with a project that ARTC put through my electorate and I found that they were quite bullish and pig-headed about the way they went around it. I did not find that the local community and concerns were respected at all. It turns out that all the projections around hydrology, environmental impact and noise impact by ARTC's experts were underestimated. The consequence is that it has affected people's lives and livelihoods. The problems that have been left by ARTC because they have underestimated impact have now been left with those small communities and the State. When I have knocked on NSW Planning doors to try to help these people and get justice for them we as a State were not able to do anything for them. I have got a broader concern about this entire project that we as a State are just not going to protect our people the way that we should. This is not our project. We have to look after our people first and foremost. What confidence can you give me that we have the power, strength and leverage to do that?

Ms VAN DEN HONERT: We go through the environmental impact assessment process. As part of that when we are doing our assessment, as I said before, we can engage our own independent experts to evaluate any issues that we think need to be evaluated or independently assessed as part of that. At the end of the day the Minister is the final decision-maker as to whether the project gets determined or not and what conditions are put onto that project. I am happy to take on notice looking at the previous ARTC projects where they have been underestimated so that we make sure that any learnings that come out of that are incorporated into the next ones that are coming in (p41).

Response:

The Department undertakes its assessment, post approval and compliance roles with a high level of professionalism to ensure that the environmental impacts of projects are acceptable. An integral part of this process is the engagement of the community and the consideration of community concerns. It should be noted that the construction and operation of all major infrastructure will have environmental impacts, regardless of the proponent, and cannot be delivered with zero impacts. These projects have residual impacts that need to be managed, mitigated or offset.

In respect to Inland Rail projects, the Department has listened to the community and in relation to potential flooding impacts has initiated a number of significant actions to understand this complex matter, including requiring ARTC to prepare a Preferred Infrastructure Report to address Environmental Impact Statement deficiencies, the engagement of an independent flooding expert,

and the establishment of a Hydrology Working Group with key agency and independent experts, which consider flooding impacts throughout the assessment process.