

Submission  
No 3

**INQUIRY INTO IMPACT OF PORT OF NEWCASTLE SALE  
ARRANGEMENTS ON PUBLIC WORKS EXPENDITURE IN  
NEW SOUTH WALES**

**Organisation:** East Liverpool Progress Association

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# EAST LIVERPOOL PROGRESS ASSOCIATION

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## East Liverpool Progress Association submission to the NSW Legislative Council – Public Works Committee Inquiry into the impact of the Port of Newcastle sale arrangements on public work expenditure in New South Wales.

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6<sup>th</sup> January 2019

### Summary:

The purpose of this submission is to cast light on the planning mess that the successive NSW State Governments have made of Sydney's container freight movement infrastructure. It provides focus on the processes that have partially delivered the Moorebank Intermodal Freight Terminal (MIFT). We charge that the planning processes have been corrupted in the exercise of corporate rent seeking in response to what can be fairly defined as perverse political payback by the Labor movement.

This situation pivots on the presence of Mr. Chris Corrigan as progenitor of MIFT. Historical industrial warfare (Melbourne Wharves - 1998) locates Mr Corrigan as hero to the Liberal National Party and arch villain to the Labor Movement. Thus we have Moorebank Precinct East (MPE) and Moorebank Precinct West (MPW). The latter born of the idea of the former, and used as a tool to stymie it.

This submission charges that Labor should have worked to expose the grave flaw in Corrigan's original evaluation that renders the site as unsuitable for the use, as provided in the NSW Environment Planning and Assessment Act – S4.15 1 ( c ). Moorebank fails the objective evaluation of the site's suitability. This is confirmed by the status of its approval process, and in the conditions applied to it.

The public demand for better government can be supported by the Inquiry in it seeking a formal investigation into the aforementioned analysis. In the meantime the Inquiry should seek a moratorium on all freight container movement (FCM) infrastructure along the Newcastle-Sydney-Port Kembla axis for the purpose of an objective review of all public and private, existing and alternative, port-rail-road infrastructure investments.

MIFT has seen to date \$1.5 billion of public funds expended, loaned or foregone to date. \$500+ million of local road works to make it work are yet to be apportioned – to the taxpayer and/or the Qube Shareholders.

The structure of the submission includes descriptors of MIFT structure, and its planning status. Upon enquiry a fully referenced Time Line of events from 1993 to the present is available for examination.

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## **Introduction:**

The advancement of Port Botany, and its separate ancillary infrastructure, to be the primary sea facing location for Sydney's freight container movement has delivered to the public an extraordinary insight into the machinations of government and industry. That of corrupted processes, compliant senior public servants working to order, corporate advisory entities that either lack the skills, or the expected ethics, of a professional in them delivering the desired advice / findings, naïve industry leaders being used to form policy that blocked the initiatives of private investors, and opportunistic senior politicians willing to curry favour or, more perversely, being duped to engage in payback politics with a history since 1998.

The purpose of this submission is to cast light on the planning mess that successive NSW State Governments have made of Sydney's container freight movement infrastructure, of which Port of Newcastle is an integrated part. We understand that the core focus of the subject Inquiry is upon the Port of Newcastle sale arrangements that have linkages to the lease of the Port Botany site and operation. This submission focuses on the planning and development of the Moorebank Intermodal Freight Terminal (MIFT) which exhibits all of the aforementioned components in the machinations of government and industry.

We trust this submission's relating of facts and informed commentary will provide the substantial basis for the Inquiry to seek a formal investigation into the development process of MIFT. On evidence presented, it is shameful. In the meantime we ask the Inquiry to call upon the Government to act for an immediate planning and approval moratorium on all projects involved in the container freight movement along the Newcastle-Sydney-Port Kembla axis, and act on alternative directions including the reconfiguration of existing large port, rail and road public investments as presented elsewhere.

## **ALP – Labor Movement v Chris Corrigan**

Mr. Chris Corrigan's business interests in Sydney's south west, near to Moorebank, were targeted in campaigns by Labor activists in the early 2000's.

The activism continued to 2005 whereby an alternative intermodal at Moorebank was promoted by the NSW Labor Government. It was picked up later in 2007 by the new Federal Labor Government which initiated an intermodal development that at once stood in opposition to Corrigan's interests and proved to be a useful block to those interests for four years.

The Moorebank Intermodal stands as a folly of an "obsessed" corporate player and, it is our charge, a contrived Labor strategy to block his interests.

The flaw in the original observations by Mr. Corrigan of Moorebank as a suitable site for an intermodal was not challenged by his adversaries. Labor unquestioningly took up Mr. Corrigan's evaluation to justify their creation of the alternative site with the effect of blocking his development's access to the Port Botany rail link. They withheld Owner's Consent for the Corrigan rail link to cross the lands promoted by Labor as an intermodal.

## **Moorebank Intermodal Freight Terminal (MIFT) - a component of the Sydney container freight movement infrastructure.**

There are two components to MIFT. **See Descriptors below.** The largest component (MPW) is stalled in the approvals process. It is stalled, since November 2016, on "who is to pay?" for the road infrastructure required to carry the heavy vehicle container trucks. NSW RMS have identified "Local

Road Upgrades for the Moorebank Intermodal” in its 5 year projections since 2016 at a cost of \$500+ million.

So the current situation is one of “the chickens coming home to roost”. In processes described here below, informed local public opposition focussed on the inadequacy of the river bound, bridge reliant local road system to carry such a development. Thus rendering the site not suitable for development: a specific consideration (\$4.15 1C) for evaluation in the NSW Planning law - NSW Environment Planning and Assessment Act.

Studies presented by the proponents' EIS authors exhibited the awareness of the local people in their submissions to the site's unsuitability and the inadequacy of the road system – the figures stand at 80% and 63% of submissions respectively. Local knowledge should not be written off as a NIMBY response. Such is the lack of objective evaluation.

### **Corrigan's Flaw in his evaluation of Moorebank**

ELPA letters to Mr. Corrigan and the Government Ministers (Federal and State) made them fully aware of Mr. Corrigan's flawed evaluation. It missed the fact that East Liverpool (Moorebank) is a river bound ( three sides ), bridge reliant traffic corridor servicing the entire far south west region of Sydney to points east and near north and near south.

There are no other road / bridge routes to the east for over 20 kilometres to the south due the Liverpool Military Area, in use for over 100 years, being adjacent to MIFT's southern boundary.

The three Liverpool Bridges on the western arm that MIFT seeks to use carry more aggregate traffic than the three bridges that serve the Sutherland Shire, and almost as much as the Sydney Harbour Bridge and Tunnel combined. This should have been ringing alarms in the early planning process.

### **MIFT's origins:**

It had been reported that in the early 2000's Mr Corrigan flew his recreational helicopter above the site to view its many, and always quoted as truth, benefits as a site for his purpose – flat lands, owned by the Commonwealth, adjacent to the M5 road system with the M7 junction nearby, across the river from the proposed SSFL rail link to Port Botany. He failed to recognise the above-mentioned limitations.

It is our observation, in the absence of any published documents, that the MPW (the Labor) initiative simply picked up on Mr. Corrigan's – as the most

prominent and experienced person in the Freight Logistics industry – “informed” evaluation.

There is no evidence of an objective evaluation of the Moorebank site’s suitability presented in the \$70 million Detailed Business Case by KPMG for the Rudd Government in a journey that saw Mr. Corrigan’s interests arrested.

Animosity of the Labor Movement toward Mr. Corrigan’s interests are displayed in Senate Estimate Hansard records since 2012 and as late as February 2018.

**The perverse irony is that MIFT could have been stopped using NSW Planning Law by challenging the site’s suitability for the use sought.**

The continuous response, of politicians from all Parties (excluding local member - Craig Kelly MP), from industry leaders, from business newspaper editorial stories and from the proponents, Qube Executives, and from the Moorebank Intermodal Company Executives and Chairman (Schott), has been consistent; that the project has been supported by both the NSW Government and the Commonwealth Government, Labor and LNP, and industry leaders for over (now) 15 years since 2004.

The sole recognition of the constraints on the site, as presented by the ELPA and other local citizens, is exhibited in Limits of Consent via the first NSW Planning Assessment Commission Determination in 2015, and each subsequent to it, whereby the TEU Container throughput of the combined development is now restricted to 33% (500,000) of the requested 1.55 million TEU sought. This Limit of Consent is tied to the volume of heavy vehicle not exceeding the capacity of the local road system. The solution to this involves unavoidable high cost bridge and road works. This fact is yet to be announced by QUBE; the ELPA has informed both the ASX and ASIC of matters pertaining to this non-disclosure.

The core problem is the “merge-weave” operation on the nearby M5 Georges River (west) bridge. As traffic merges in from the on ramp access lane to go west via the M5/M7 (the core direction for MIFT heavy vehicles to and from), it meets with traffic weaving out into the same lane to exit the M5 via the Hume Highway ramp. It is a dangerous operation at the best of times, with the road at this point being a traffic safety Black Spot.

View the merge/weave in action here: <https://youtu.be/IRQ7SRcEJDE>

With the extra congestion and the higher incidence of accidents between heavy vehicles and lighter vehicles Government must not be seen in its

decisions to value congestion costs and public safety at a lesser value in Sydney's southwest.

## **At this point we offer more detailed definitions of MIFT:**

### **MPE: Moorebank Precinct East - eastern side of Moorebank Avenue Chris Corrigan : Patricks.... Qube interests**

This is the original (2004) site identified by Mr. Chris Corrigan (then Patricks Stevedoring - later Qube Holdings ) – it is 83 hectares. It was earmarked in the 2004 Federal election by the LNP as a future freight intermodal site. Patricks Stevedoring are on record as donating over \$156,300 to the LNP at the time.

The MPE site's rail access to the Port Botany rail link (Southern Sydney Freight Rail – SSFL) crosses lands owned by the Commonwealth and used by Defence's School of Military Engineering (SME). Those lands (MPW) stand between MPE and the SSFL. Their owners, the Commonwealth Labor Government from 2017 to 2013, withheld Owners' Consent for access which stymied the planning approvals process of Mr Corrigan's private investment initiative.

MPE Concept Plans and Stage 2 IMEX approvals have Limits of Consent restricting throughput to 250,000 TEU subject to local road capacity not being exceeded. Note: most nearby traffic intersections are near full congestion level. The aforementioned merge/weave is at a point that is congested in peak hours now, and nearing full day congestion.

### **MPW: Moorebank Precinct West - western side of Moorebank Avenue**

#### **Initiated and developed by Labor while blocking the development of MPE from 2007-2013**

This is the site of the School of Military Engineering and other smaller military units – it is 240 hectares and is bounded on the west by the Georges River's Riparian area. The units have been re-located to Holsworthy at a cost of \$500+ million to make the site available.

A report titled, **Railing Port Botany's Containers** was produced by an entity known as the **Freight Infrastructure Advisory Board** (FIAB). This Board comprised a mix of leading business, industry, government and trade union appointees; it was chaired by Mr. Laurie Brereton, a retired ALP politician.

There is no Freedom of Information sourced data on the FIAB's origins. Its formation came from the Minister's Office as a Ministerial Directive. Hence, all records went out with the Minister upon change of Government. The then Minister was Craig Knowles MP, a local member well versed with Moorebank and East Liverpool. At that time, 2004-05, Knowles, as NSW Minister for Infrastructure and Planning, was in a legal battle across several years with Mr. Chris Corrigan's Patricks Stevedoring interests in Ingleburn. The Court finding was against the Minister's action, with the Judge commenting that Mr. Corrigan's plans for the expansion of the Patricks site at Ingleburn was consistent with government policy.

The **Railing Port Botany's Containers** report seems to have been the sole purpose, and certainly the only output, of FIAB. The report's primary and most prominent explicit recommendation was **to establish a freight intermodal at Moorebank on the SME site – now MPW.**

The FIAB members would, or should, have been aware at that time (2004-05) that Mr. Corrigan's lobbying had been successful in having Moorebank announced in LNP 2004 Election policy as a future freight intermodal site. They would not have known whether their Board's promotion of the alternative Moorebank site MPW, and the promotion's consequences, was one of intentional steering by others or just the free flow of fortune for the Corrigan haters.

The ELPA sought comment from several FIAB appointees, with no response. Their report makes no mention of the presence of MPE or it being sold by the government to private investors in 2003. If they knew then surely they would have reasoned that the SME site (MPW) would be utilised in expansion of MPE intermodal and warehouse services.

The FIAB report was released in October 2005. It became a prominent reference document for government, industry and business to exclaim support for the development. However, its effect emerged as a time bomb for Mr. Corrigan's emerging Moorebank interests. It was picked up and sourced for ALP policy in 2007 in which year there was a tiring LNP Howard Government and a fresh, safe face leading the ALP to a Federal Election.

**Moorebank SME site became ALP policy. This led to a \$300 million budget allocation, \$70 million of which paid for a Detailed Business Case.**

Yet, **there is no published business case** supporting the development of MPW as a public funded project to be later sold on to private investors. Its existence flowed from a report (FIAB) without any objective analysis of the suitability of Moorebank to be the location of such development. It seems



to have ridden the wave of affirmation from Mr. Corrigan's reported flyover of the site, the presence of which reportedly became an "obsession" with him – **The Australian**.

MPW owners, the Commonwealth Labor Government from 2010 to 2013, withheld Owners' Consent stymieing the plans of Mr Corrigan's MPE development. MPW became a useful tool to block the interests of Mr. Corrigan. To the cost of all – taxpayers and shareholders – a shameful act if found to be unchallenged.

MPW Concept Plan approval has Limits of Consent restricting throughput to 250,000 TEU subject to local road capacity not being exceeded.

The MPW Stage 2 development application from November 2016 is stalled as at 5<sup>th</sup> January 2019.

### **MP – Moorebank Precinct:**

With the 2013 election of the Abbott LNP government moves were made to resolve matters. Owner's Consent was attained for SIMTA ( Corrigan/Qube Interest ) after four years. Both developments came under the control of SIMTA ( Qube ) in 2015. The Australian National Audit Office (ANAO) review of the process that finalised the agreement found that value was not attained for the taxpayer in the agreement.

MPE and MPW have progressed under separate planning approvals. Reason would dictate that a single integrated development be presented back to the approvals process. It seems to be a position adopted by SIMTA to one of "holding on to what you have got".

Combined, under their separate Determinations, MPE and MPW have approval for 33% of the TEU throughput sought, with extra being contingent on the local road capacity not being exceeded.

It has been reported that the Commonwealth loan to fund the MP rail link to the SSFL is to be repaid on a cost recovery basis. This is but one cash flow element to be adversely affected by diminished TEU throughput.

### **Status of the MIFT Planning Approvals:**

MPW Stage 2 as at January 6<sup>th</sup> 2019, after two years of evaluation, stands with approvals status of "More information required to finalise Assessment".

MPE has on site work underway, mainly on publicly funded land remediation and rail access link to the SSFL. Limits of Consent include:

- 250,000 TEU – road capacity constraint.
- Warehouse operations being restricted to IMEX containers delivered in/out via the Port Botany rail link.

MPW has only publicly funded land remediation works carried out.

Its Limits of Consent include:

- 250,000 TEU – road capacity constraint.
- Warehouse operations being restricted to IMEX containers delivered in/out via the Port Botany rail link.
- The MIFT project is stalled – as at January 6<sup>th</sup> 2019. The latest MPW Stage 2 EIS Documentation has the Proponent stating that the local road system is at capacity today – **“The Proposal would likely exceed the current capacity at the M5 Motorway / Moorebank Avenue intersection and upgrading of the intersection is required as a result of existing (background).”** It acknowledges the Fail status of two other nearby intersections on routes to be used by MP heavy vehicles.

**The Proponent – Qube – itemises these for the NSW Government to fix.**

- The NSW RMS in July 2015 costed the “Moorebank Intermodal Road Upgrades” at \$500+ million in its Forward Work Plan – Major Projects 2020 presentation.

The current NSW Government has placed the cost of these works with the Commonwealth and/or the Proponent.

## Conclusion

The Moorebank Intermodal Freight Terminal is the locus of a dirty diesel industry that comprises the movement of noise emitting heavy metal containers with 24 hour 7 day operation of rail, truck and onsite container handling vehicles, the laying down of over 300 hectares of tar and cement and over 100 hectares of heat sink roof tops.

The Moorebank Intermodal Freight Terminal is located on its east and west boundary within 400 metres of established residential neighbourhoods; its encroaches the riparian area of the Georges River - to make it fit; its rail

access route contains a curve that is 100% over the recommended size to curtail the wheel squeal – to make it fit.

The Moorebank Intermodal Freight Terminal is located, as a dirty diesel industry, in low river basin topology that naturally functions as a dirty air sink.

This extraordinary diminishment of public amenity has been deemed acceptable based on the projected \$9 billion national economic return over 30 years. This is considered to be in the national interest.

It is not known at what level of return would trigger a consideration for the local public. Of course the two do not mesh. But we have government, business, and industry men and women who, in a spirit of “getting on”, act in defiance of facts brought to them in the approvals process. They appear at ease in proceeding with the unrealisable economic bottom line that justified their decisions to destroy the local human and natural amenity in the national interest. By any measure of facts known today, the economic return with all costs inputted is a false justification.

Our open democracy relies on accountability.

It is our hope that the Inquiry, in its examination of the machinations at work in the sale of the Port of Newcastle lease, will endeavour to extend enquiry into the machinations in the development of the Moorebank Intermodal. With Influence and political perversity acting at great cost to the nation but more importantly to the trust of the people, both near and far.

Note: Upon enquiry a fully referenced Time Line of events from 1993 to the present is available for examination

\*\*\*\*\* End of Submission \*\*\*\*\*

Yours faithfully,

Michael Byrne                      President