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Sent: Monday, 3 July 2017 8:08 PM
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Subject: AM2016/25 – 4 yearly review of modern awards - Horticulture Award 2010

Dear Vice President

Please find enclosed a second supplementary statement of Paula Colquhoun in response to the statement of Jafar Kazmi and paragraphs 1 to 8 of the statement of George Robertson which were received at 4.09pm (CST) and 4.39pm (EST) on Friday, 30 June 2017.

Please also find enclosed an updated version of the hearing timetable for the conduct of the applications.

Kind regards

Kylie Dunn | Senior Associate



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IN THE FAIR WORK COMMISSION

Matter No. AM2014/231 / AM2016/25

Mitolo Group Pty Ltd

First Applicant

Australian Industry Group

Second Applicant

Maranello Trading Pty Ltd

Third Applicant

APPLICATION TO VARY A MODERN AWARD - HORTICULTURE AWARD 2010

SECOND SUPPLEMENTARY WITNESS STATEMENT OF PAULA COLQUHOUN

I, Paula Colquhoun, of 1304 Angle Vale Road, Virginia in the State of South Australia, Group Human Resources Manager for the Mitolo Group of Companies, state as follows:

Introduction

1. I make this second supplementary statement in response to paragraphs 1 to 8 of the second witness statement of George Robertson dated 30 June 2017.
2. In this statement I refer to a number of documents. These documents are annexed to this statement and referred to by their paginated page number.

Mitolo Group operations at Eastern Creek in New South Wales

3. I refer to paragraph [10] of my witness statement dated 23 December 2016 where I refer to the Mitolo Group having recently acquired assets in New South Wales.

Lodged by:

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on behalf of Mitolo Group Pty Ltd
and Maranello Trading Pty Ltd
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4. In September 2016, the Mitolo Group acquired some of the South Australian and New South Wales assets of the Oakville Group of Companies. The Oakville Group was then in receivership. The Oakville Group previously conducted operations in both South Australia (**Former SA Operations**) and New South Wales (**Former NSW Operations**).
5. The assets acquired by the Mitolo Group included the following:
 - 5.1 plant and equipment;
 - 5.2 intellectual property;
 - 5.3 packaging and consumables; and
 - 5.4 land in South Australia.
6. In November 2016 the Mitolo Group acquired assets from Rosella Sub TC Pty Ltd (which entity had previously purchased assets from the Oakville Group of Companies). The assets acquired by the Mitolo Group included the following:
 - 6.1 plant and equipment;
 - 6.2 intellectual property;
 - 6.3 packaging and consumables; and
 - 6.4 land in Hillston, New South Wales. The land in Hillston involves multiple farming sites in a rural area, situated some 600 kms from Sydney and is one and a half hours drive from Griffith.
7. Prior to the acquisition of these assets by the Mitolo Group:
 - 7.1 as part of the Former SA Operations:
 - (a) washed potatoes and onions were grown on a number of growing sites located in South Australia;
 - (b) once harvested, potatoes were washed, treated, graded, packed and forwarded at a facility located at Nildottie in South Australia. Onions were also graded and packed at the Nildottie facility. This is explained at paragraph [90] of my previous statement dated 23 December 2016;

- (c) bulk washed potatoes and onions were transported in one tonne bulka bags or 8 tonne bins to facilities based in Sydney, Melbourne and Brisbane (**Metro Facilities**) for final grading, packaging and forwarding;

7.2 as part of the Former NSW Operations:

- (a) brushed potatoes were grown on a number of growing sites located in Hillston, New South Wales;
 - (b) once harvested, potatoes were separated from waste and placed into 1.25 tonne bulka bags or 8 tonne bins at a facility located at Hillston in New South Wales (**Hillston Facility**);
 - (c) the potatoes were then transported to the Metro Facilities for final grading, packaging and forwarding.
8. As stated at paragraph [91] of my 23 December 2016 statement, the Nildottie facility has ceased to be used. Produce grown in South Australia is now all washed, graded, treated and packed at the Angle Vale Road Site.
9. Since acquiring the assets of the Oakville Group, the Mitolo Group has continued to operate the Hillston Facility. The Mitolo Group did not acquire the lease in respect of the Metro Facilities referred to above.
10. Since mid November 2016 the Mitolo Group has leased a new facility located at Eastern Creek in New South Wales (**Eastern Creek Facility**). The Hillston Facility and the Eastern Creek Facility are situated approximately 600 kms apart. The Eastern Creek Facility is situated at 1/25 Wonderland Drive, Eastern Creek NSW 2766, which is some 56 kms from the Sydney CBD. It is located near the M2 and M4 motorways.
11. The Mitolo Group acquired plant and equipment that was previously used by the Oakville Group in the Metro Facilities. The Mitolo Group has relocated that plant and equipment to the Eastern Creek Facility and the Angle Vale Road Site.

12. All of the Mitolo Group's washed potatoes are grown in South Australia and undergo washing, grading, treating and packing at the Angle Vale Road Site. All of the Mitolo Group's brushed potatoes are grown in New South Wales and undergo grading, treating and packing at the Hillston Facility and the Eastern Creek Facility.
13. Comparing the volumes of produce going through the Angle Vale Road Site and the Eastern Creek Facility, I would estimate that the Angle Vale Road Site would handle approximately 80 percent of our produce and Eastern Creek some 16 per cent. In terms of staff at these facilities, Mitolo employs some 400 staff at the Angle Vale Road Site and some 60 workers (including labour hire workers) at Eastern Creek.
14. The brushed potato market is relatively small in South Australia compared to New South Wales.
15. As stated above, brushed potatoes are now grown and harvested on various growing sites in the Hillston area. The Mitolo Group utilises approximately 5400 acres of land across multiple sites and grows potatoes on around 1800 acres of land every 3 years.
16. Washed potatoes are grown in heavier soil. All dirt is removed during the washing and treating process. In comparison, brushed potatoes do not undergo any water or treatment cycle.
17. After harvesting, brushed potatoes grown on Hillston growing sites are transported in 8 tonne bins by Mitolo Group owned trucks and/or tractors to the Hillston Facility. That facility is situated across the road from one of the growing sites in that area, as well as next door to another growing site.
18. The Hillston Facility is only used during the months of June to October and December and January of each year (7 months). The remainder of the time the facility is not used. This is due to weather conditions in the Hillston area which do not permit growing year round because it is too hot. The growing season is at the optimum time for producing a quality product that meets customer specifications.
19. At the Hillston Facility, produce is tipped via a mechanical hopper on to a shaker belt so that excess soil and debris can be removed. The product is then passed onto conveyor belts where the first main grade takes place. This involves blemishes and defects being removed and product being graded to customer specifications.

20. Around 15 per cent of produce is packed and dispatched directly to customers in 15, 20 and 50 kg bags or crates.
21. Around 80 per cent of produce is placed into 1.25 tonne bulka bags and transported to the Eastern Creek Facility. There it undergoes a final grade and quality check before being packaged or packed into 50 kg bags and then dispatched for direct sale to market.
22. As product cannot be supplied all year round from the Hillston growing sites due to weather conditions, product is sourced from external growers to be able to meet customer demands for 12 months of the year. Product from both external growers and the Hillston Facility is transported to the Eastern Creek Facility for grading and packaging.
23. The produce that arrives at Eastern Creek from the Hillston Facility accounts for around 55 per cent of all produce that arrives at that facility.
24. Product that is received by both external growers and from Hillston growing sites has undergone the first stage grading process and waste removal process by the time it arrives at the Eastern Creek Facility.
25. There are a number of reasons why not all produce is dispatched to customers direct from the Hillston Facility. That facility does not have the necessary infrastructure to supply the major supermarkets 52 weeks each year. The Eastern Creek Facility is central to not only receiving product during all seasons, but is in a prime location to serve the Mitolo Group's customer base logistically. Additionally, customers have different ordering processes. This varies from a programmed order that changes daily, to others placing the order and expecting delivery within a very short time frame. This cannot be achieved from the Hillston Facility due to its remote location (600 kms from Sydney), the lack of qualified employees in that area, truck availability/turnaround time to serve customers and current infrastructure at that site.
26. Attached to this statement is a powerpoint presentation which explains, by reference to a number of photographs, the activities that occur at the Eastern Creek Facility. A summary of those activities follows:

26.1 Page 10 - truck unloading area:

- (a) trucks arrive on site and park in the parking bay for unloading;

- (b) when product is unloaded it is given a label referring to the product/grower details to help identify when the produce is placed on a line for packing;

26.2 Page 11 - product staging area:

- (a) bulk bags containing product to be packed are delivered by forklift from the unload area to the staging area ready for packing;
- (b) the quality assurance team are provided details for all of the day's inbound product and are checked and tested for quality prior to the product being tipped;

26.3 Pages 12 to 13 - bag hanger:

- (a) bulk bags containing product are tipped at the beginning of the line for packing;
- (b) they travel from the hanger into the hopper and onto the elevator to approach the grading table;

26.4 Page 14 - grading/size table:

- (a) product passes from the elevator onto the grading table where an average of 4 people are grading out defective product (cuts, bruises, bug damage and machine damage);
- (b) once past the grading table the product is put through the sizing table which is set to specifications expected by the customer/consumer;

26.5 Page 15 - Weigh head, Gillenkirch (a type of packaging machine) and check weigher:

- (a) once sized, the product travels down the main conveyor system where it is processed up an elevator and into the weigh head;
- (b) the weigh head drops the specified weight required into the belt that feeds the gillenkirch;

- (c) the printer attached to the gillenkirch stamps the bag with the required processing information;
- (d) the bags are filled by the gillenkirch and sealed with the kwiklock unit;
- (e) it is then placed onto the conveyor and run over the check weigher;

26.6 Page 16 - Rotating Table/Palletising:

- (a) the bags are fed down the remaining conveyor belt system to the rotating bowl where it is collected and placed into the crates;
- (b) the pallets have 36 crates each (6 crates per layer) that are stacked onto them and are covered with a lid per crate;

26.7 Page 17 - labelling prep area :

- (a) pallets are collected by a forklift and placed in the Labelling Prep Area;
- (b) labels are placed on the product showing the description and on the pallet lids;

26.8 Page 18 - final quality assurance:

- (a) random pallets are collected from the preparation area and random crates on each pallet are opened and assessed for any malformations or defects;
- (b) the pallet is passed or failed once the assessment is complete and then handled accordingly;

26.9 Page 19 - despatch staging area:

- (a) pallets are staged per product for picking and dispatching;
- (b) picked pallets are placed in their "destination" lanes, the production label collected from them for data entry;

- (c) the pallets are then labelled by colour coding to each receiving destination where they will be loaded on the outbound vehicle/transport company for delivery.
27. There is no cool room at the Eastern Creek Facility to store brushed potatoes. Nor is there racking for storage of brushed potatoes. There is a small cool shipping container that holds 6 pallets that is used to chill organic potatoes. Organic potatoes account for around 1 per cent of the product received at the Eastern Creek Facility. All produce (including that which comes from the Hillston Facility and from external growers) is generally dispatched on the same day or the following morning after it arrives at the Eastern Creek Facility.
28. Around 45 per cent of product received by the Eastern Creek Facility is bought in by the Mitolo Group from external growers who are based in Queensland and Victoria. The Mitolo Group purchases this produce from growers and packs and dispatches it to customers under the Mitolo Group brand. The Mitolo Group does not exclusively pack produce for those growers.
29. Annexed to this statement are:
- 29.1 two Google earth images which depict the Eastern Creek Facility (pages 20 to 21); and
- 29.2 a diagram which depicts the above operations.

Terms and conditions for employees who work at Eastern Creek Facility

30. The employees who work at the Eastern Creek Facility are employed by Mitolo Group Pty Ltd.
31. The majority of the employees who work at the Eastern Creek Facility (other than labour hire staff) were transferring employees from the Oakville Group of Companies.
32. The Mitolo Group is currently paying these employees base rates of pay which are equal to the minimum rates of pay prescribed by the *Storage Services and Wholesale Award 2010 (SS&W Award)*. The reason for this is that when the Mitolo Group acquired the Oakville business these employees were paid under the SS&W Award by their former employer. The Mitolo Group decided to maintain the status quo because this was their transferring instrument.

33. The Mitolo Group considers that the applicable award which covers employees who perform work at the Eastern Creek Facility is the *Horticulture Award 2010* because all of the duties performed by those employees fall within the scope of the classifications of the Horticulture Award.

NUW entry at Eastern Creek Facility

34. On 27 June 2017, the Mitolo Group received written notice from the National Union of Workers (**NUW**) that it intended to exercise rights of entry pursuant to section 484 of the *Fair Work Act 2009* (Cth) in respect of the Eastern Creek Facility.
35. On 28 June 2017, a representative of the NUW attended at the Eastern Creek Facility for the purpose of holding discussions with employees. This was the first time that the NUW had visited the Eastern Creek Facility since the Mitolo Group commenced operation of that facility in or around November 2016.
36. I am informed from my discussions with Mr Callum Cormack, operations and sales manager who works at the Eastern Creek Facility and believe that the NUW representative who attended the facility on 28 June 2017 held discussions with employees in the lunch room and did not view the operation or the work undertaken at the site.

Paula Colquhoun

3 July 2017

Truck Unloading Area

- Truck arrives on site, visit's the dispatch/receival team and is advised where to park and when to enter the shed and park in the parking bay for unloading
- When product is unloaded, it is given a label referring to packout details and product/grower details to help identify when tipping product for packing



Product Staging Area

- Bulk bags containing product to be packed are delivered by forklift from the unload area to the staging area ready for packing
- QA team are provided details for all of the days inbound product and are checked and tested for quality prior to product being tipped



Bag Hanger

- Bulk bags containing product being tipped at the beginning of the line for packing as per the production plan and the production whiteboard
- They travel from the hanger into the hopper and onto the elevator to approach the grading table



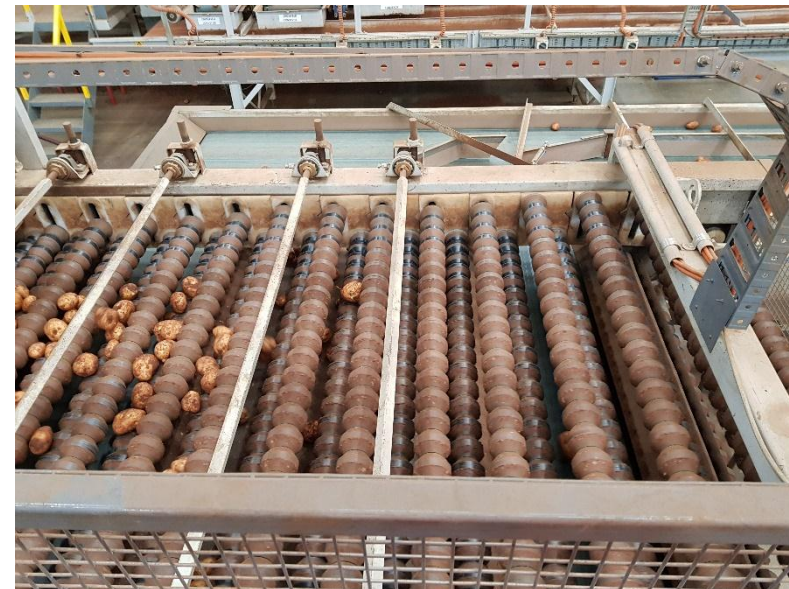
Bag Hanger

- Bulk bags containing product being tipped at the beginning of the line for packing as per the production plan and the production whiteboard
- They travel from the hanger into the hopper and onto the elevator to approach the grading table



Grading/Sizing Table

- Product passes from the elevator onto the grading table where an average of 4 people are grading out defective product (cuts, bruises, bug damage and machine damage)
- Once passed the grading table the product is put through the sizing table which is set to specifications expected by the customer/consumer



Weigh head, Gillenkirch and check weigher

- Once sized, the product travels down the main conveyor system where it is processed up an elevator and into the weigh head.
- The weigh head takes drops the specified weight required into the belt that feeds the gillenkirch
- The printer attached to the gillenkirch stamps the bag with the required processing information
- The bags are filled by the gillenkirch and sealed with the kwiklock unit
- It is placed onto the conveyor and run over the check weigher



Rotating Table/Palletising

- The bags are fed down the remaining conveyor belt system to the rotating bowl where it is collected and placed into the crates
- The pallets have 36 crates each (6 crates per layer) that are stacked onto them and are covered with a lid per crate.



Labelling Prep Area

- Pallets are collected by a forklift when complete and placed in the Labelling Prep Area
- Labels are placed on for the product description and for the production order as well as the pallet lids being placed on top



QA Final Assessment

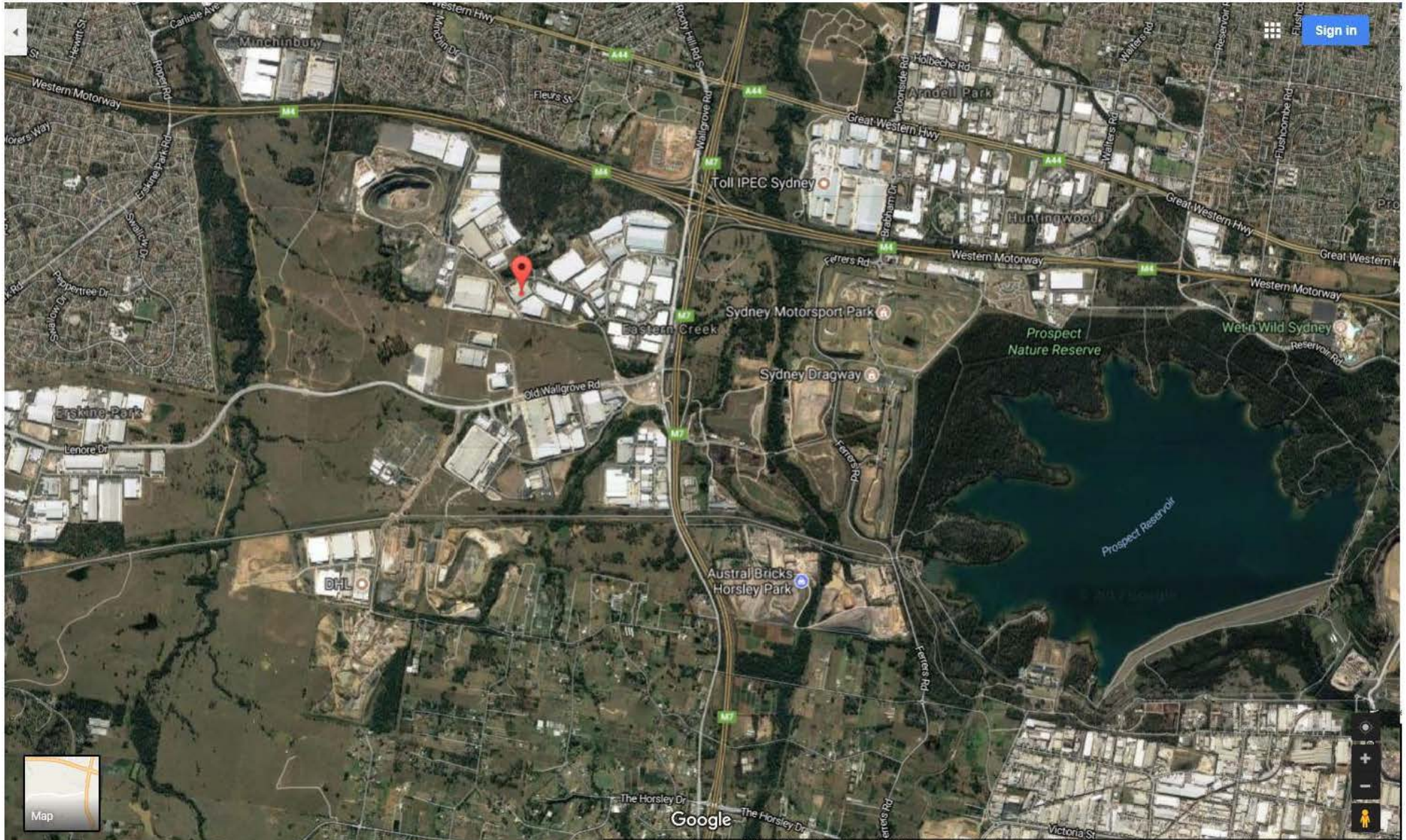
- Random pallets are collected from the Prep area and are staged for QA Assessment's.
- The pallet will have random crates opened and assessed with every bag per crate being opened to assess for any malformations or defects.
- The pallet is passed or failed once the assessment is complete and then handled accordingly

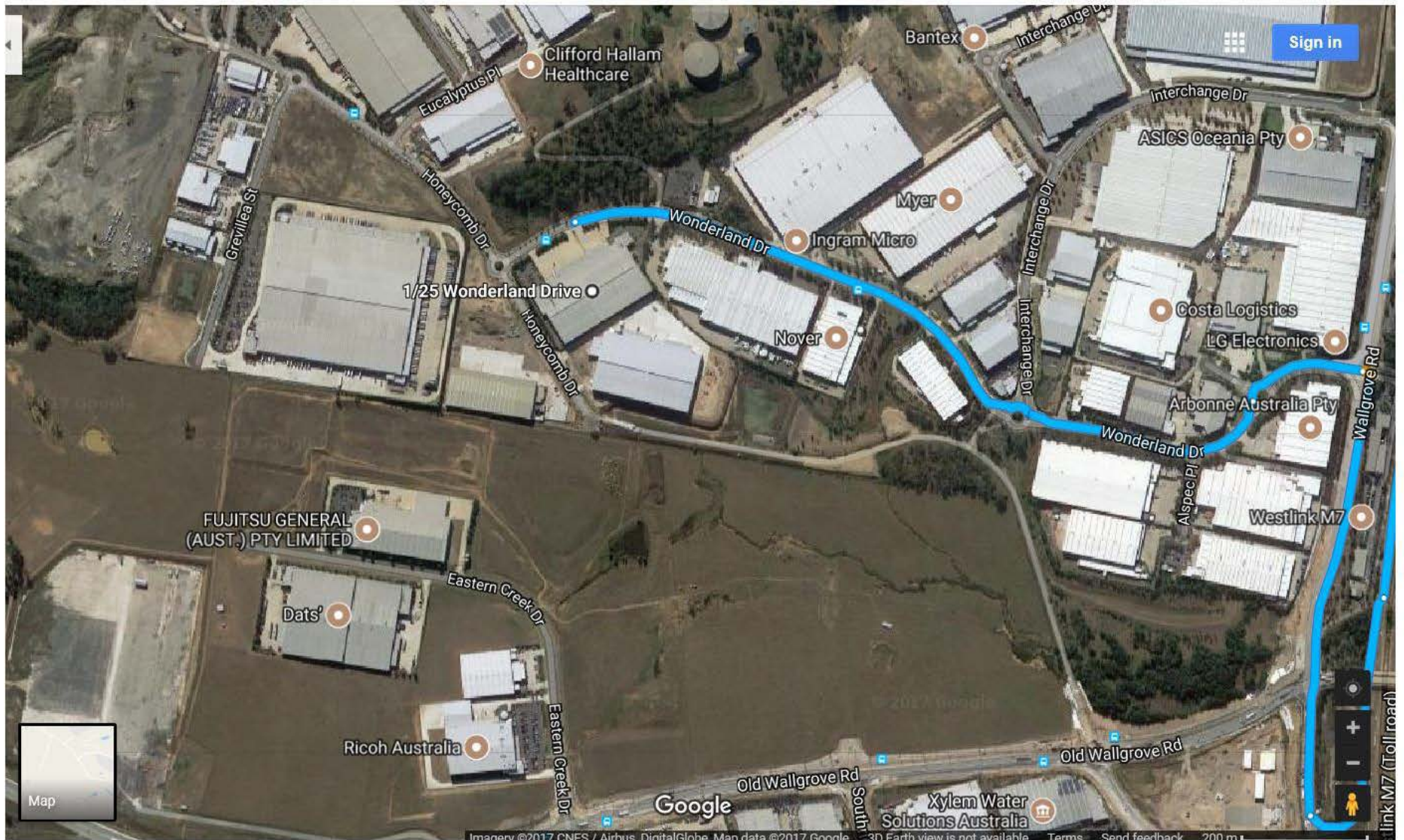


Despatch Staging Area

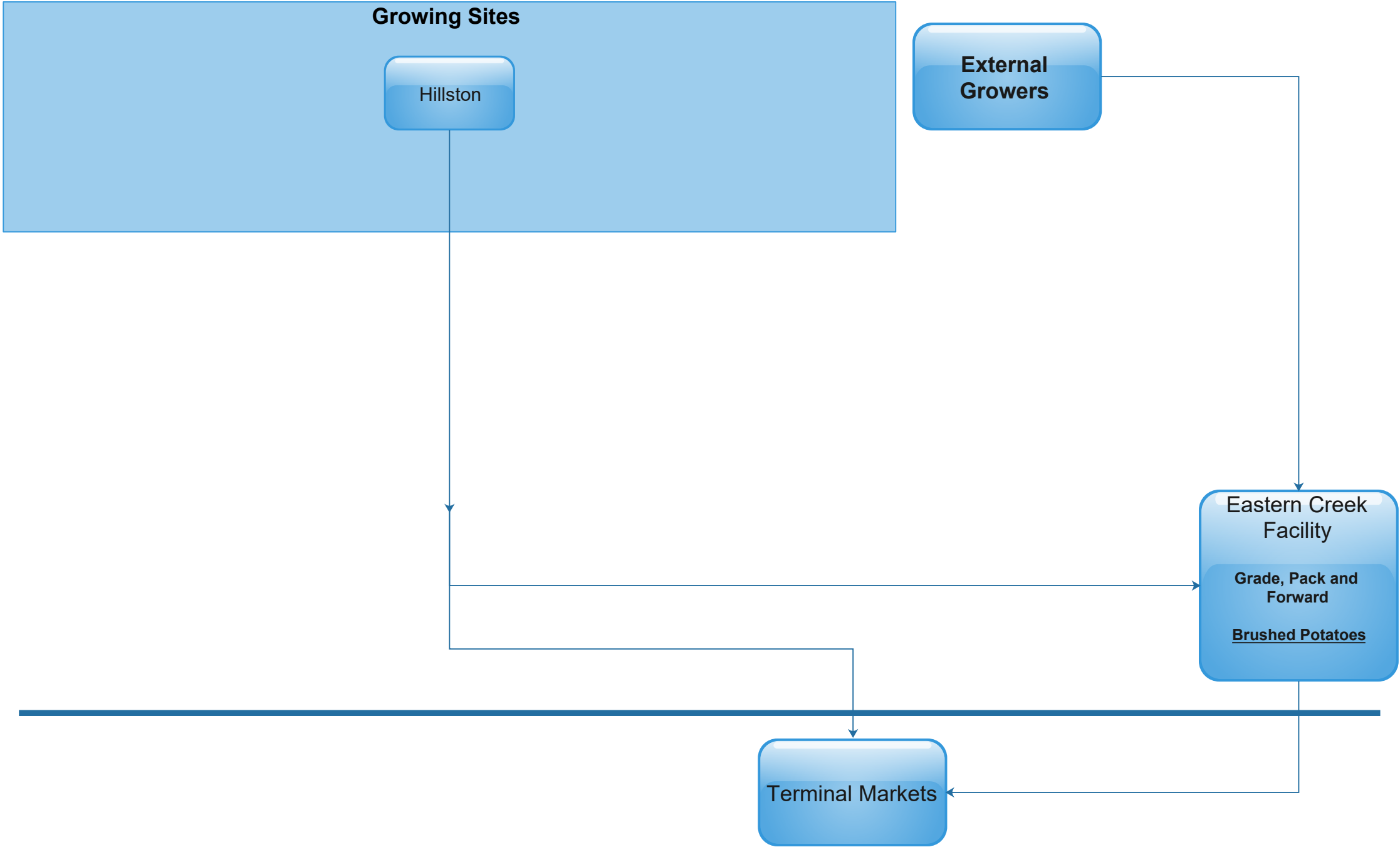
- Pallets are staged per product for picking and despatching
 - Picked pallets are placed in their “destination” lanes, the production label collected from them for data entry
- The pallets are then labelled, by colour coding, to each receiving destination where they will be loaded on the outbound vehicle/transport company for delivery







New South Wales



IN THE FAIR WORK COMMISSION

Matter No. AM2014/231 / AM2016/25

APPLICATION TO VARY A MODERN AWARD – HORTICULTURE
AWARD 2010

MITOLO'S PROPOSED TIMETABLE FOR THE FURTHER CONDUCT OF
THE APPLICATIONS FROM TUESDAY, 4TH JULY 2017

Date	Time	Event
WEEK 2 (sitting in Sydney)		
Tuesday, 4 July	10:00 am	Paula Colquhoun – recalled by Mitolo. ¹
	11:00 am	Derek Lightfoot – called by NFF. Statement only to be tendered.
	11:00 am	Robin Davis – called by AIG.
	12:00 pm	Opening statement – AWU.
	12:30 pm	Opening statement – NUW.
	1:00 pm	<i>Adjournment.</i>
	2:00 pm	Philip Turnbull – called by NFF (by Facetime audio from Italy).
	3:00pm	Jafar Kazmi – called by NUW. ²
Wednesday, 5 July		<i>No longer required</i>
Thursday, 6 July	All day	View in South Australia.
WEEK 3 (sitting in Melbourne)		
Thursday, 3 August	10:00 am	Oral closing submissions – Mitolo.
	11:30 am	Oral closing submissions – AIG.

¹ The witness is to be recalled to permit any further cross-examination by the NUW and possibly the AWU in respect of her supplementary statement dated 15 June 2017. In the event that paragraphs [9] to [39] of the second statement of George Robertson are permitted to be relied upon, Mitolo will need to seek leave to file a further statement of Ms Colquhoun in response and will seek that Mr Robertson attend for cross-examination some time in the future.

² Required by Mitolo for cross-examination.

Date	Time	Event
	1:00 pm	<i>Adjournment.</i>
	2:00 pm	Oral closing submissions – NFF.
	3:00 pm	Oral closing submissions – Gayndah Packers.
Friday, 4 August	10:00 am	Oral closing submissions – NUW.
	11:00 am	Oral closing submissions – AWU.
	12:00 pm	Reply submissions.
	1:00 pm	<i>Adjournment.</i>
	2:00 pm	Reply submissions cont.
	3:00 pm	<i>Overflow.</i>

JUSTIN L. BOURKE QC
GILLIAN WALKER

3 July 2017