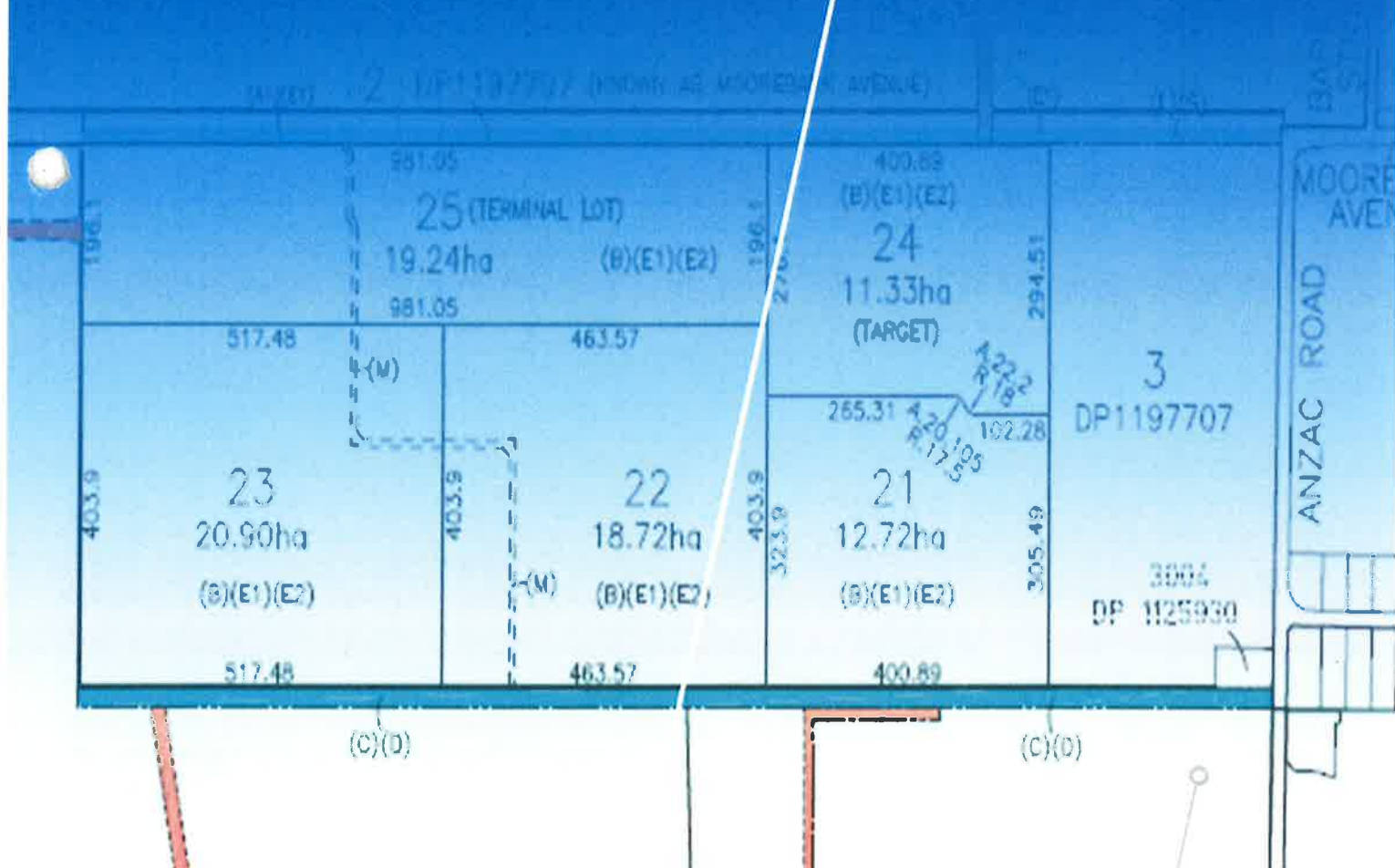


Moorebank Precinct East Stage 2 – Subdivision

State Significant
Development Assessment
(SSD 7628)



December 2018

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Cover photo

Draft subdivision plan (Source: *Subdivision Ancillary Report, Moorebank Precinct East Stage 2 (SSD 7628)*, prepared by Aspect Environmental, dated August 2018)

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Executive Summary

This report provides an assessment of a proposal for subdivision at Moorebank Precinct East (MPE) (SSD 7628). The Applicant is SIMTA, as Qube Holdings Limited, and the proposal is located within the Liverpool Local Government Area.

The proposal for subdivision forms part of an existing development application, SSD 7628, for MPE Stage 2, which sought approval for the warehousing, freight village and infrastructure associated with the MPE intermodal terminal. SSD 7628 was exhibited and assessed by the Department of Planning and Environment (the Department). The Department finalised its assessment of SSD 7628 in November 2017, and recommended to the Commission that MPE Stage 2, including subdivision, was approvable, subject to conditions.

On 31 January 2018, the then Planning Assessment Commission (now Independent Planning Commission, referred to in this report as 'the Commission') granted partial consent to SSD 7628. The partial consent allows construction and operation, comprising earthworks, approximately 300,000m² gross floor area of warehousing, warehouse fitout, 8,000m² GFA ancillary freight village, internal road network and hardstand across the site, ancillary supporting infrastructure within the site, an upgrade to Moorebank Avenue, and associated intersection upgrades.

However, the Commission's consent expressly excludes subdivision of the site. The Commission concluded that insufficient information was provided to enable proper consideration of the proposed subdivision. In granting partial approval, the Commission:

- noted that it had not refused the proposal for subdivision
- allowed the Applicant to later seek approval for subdivision — as part of the MPE Stage 2 development application (SSD 7628) and without requiring a new development application to be submitted — upon submitting additional information.

In accordance with section 4.16 (4)-(5) of the *Environmental Planning and Assessment Act 1979*, the Applicant has submitted further information, and now seeks approval for subdivision, as part of the SSD 7628. Because the proposal for subdivision was exhibited as a part of the application, and the proposal has no direct amenity impacts, the revised information was not re-exhibited, and the Department has proceeded to finalise an assessment of subdivision based on a consideration of:

- the Applicant's SSD 7628 development application and Environmental Impact Statement
- the issues raised in submissions on the exhibition of the overall SSD 7628 development application
- the Applicant's response to submissions, and subsequent agency advice
- the additional information provided by the Applicant relating to subdivision.

The additional information provided clarifies that the Applicant seeks approval for the creation of five lots, for the intermodal rail terminal, and associated warehousing and freight village.

The key issues raised in the Department's November 2017 recommendation report and the Commission's January 2018 determination report included:

- subdivision of MPE and leasing individual intermodal components potentially causing fragmentation of the site, making it difficult to implement the precinct-wide environmental management measures prescribed in the Commission's consent for MPE Stage 2
- the need to identify legal entities responsible for the holistic management of the site as an intermodal precinct
- lack of clarity around responsibility for the management and mitigation measures on site, should the Applicant no longer intend to use the site for warehousing.

The Applicant's additional information addresses the key issues raised.

The Department considers that the additional information provided supports the application for subdivision which is required for long term leasing of the warehousing precinct. By implementing legal, management and maintenance conditions the potential for fragmentation of the site would be reduced. A clear understanding of overall management of the site was required, and Qube (on behalf of SIMTA) have committed to maintain the overarching site as well as potential tenants.

The Department's assessment concludes the impacts of the development can be managed subject to the recommended conditions of consent, including:

- subdivision taking place in accordance with the final development layout plans for MPE Stage 2 when they are approved by the Planning Secretary
- creation of easements consistent with the final drainage and water sensitive urban design plans when those plans are approved by the Planning Secretary to ensure that whole of site access and infrastructure is protected and can be managed accordingly
- implementation of the centrally-administered management framework described in the additional information.

The Department considered the above issues in its assessment. The proposal has been considered in accordance with the relevant matters under Section 4.15(1), the objects of the *Environmental Planning and Assessment Act 1979*, the principles of Ecologically Sustainable Development, and issues raised by the Commission.

The Department concludes that the application for subdivision can be approved subject to conditions and recommends consideration by the Commission.



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1. Introduction

This report provides an assessment of a proposal for subdivision at Moorebank Precinct East (MPE) (SSD 7628). The Applicant is SIMTA, as Qube Holdings Limited, and the proposal is located within the Liverpool Local Government Area.

SIMTA seeks approval for the subdivision of the MPE site, which was excluded from the MPE Stage 2 development consent issued by the Commission in January 2018. Subdivision was included as part of the original MPE Stage 2 development application; however, the Commission concluded it required further information to fully assess the proposal. Consequently, the part of the application relating to subdivision was not determined and requires further assessment and separate determination under SSD 7628.

The Commission's development consent for MPE Stage 2 (SSD 7628) included approval for the remainder of the proposal, including:

- earthworks including the importation of 600,000 cubic metres (m³) of fill
- 300,000 square metres (m²) gross floor area (GFA) of warehouse use
- 8,003 m² GFA freight village
- establishment of internal roads, connection to the surrounding road network / site access
- raising the level, and upgrading of, Moorebank Avenue, upgrade of Moorebank Avenue intersections and temporary diversion road
- ancillary works including stormwater / flooding drainage infrastructure, utilities, vegetation clearing, landscaping, earthworks, remediation and signage.

This report is focused specifically on the proposal for subdivision of the MPE site.

Moorebank Intermodal Terminal Precinct

The Moorebank Intermodal Terminal Precinct is located at Moorebank Avenue, Moorebank, south of Liverpool, and is proposed to comprise an interstate, intrastate and port shuttle freight and logistics handling facility for the Sydney Metropolitan Area. The Precinct covers an area equal to 303 hectares and extends from the M5 South Western Motorway and the Defence Joint Logistics Unit (DJLU) site in the north and north east, to the East Hills Rail Line in the south. It is divided into two sites: MPE and Moorebank Precinct West (MPW) (Figure 1).

Two separate conceptual approvals cover the MPE and MPW sites:

- a concept plan approval for MPE: an import/export Port shuttle freight terminal and associated warehousing and estate works (MP 10_0193)
- a concept approval for MPW: an import/export (IMEX) Port shuttle freight terminal and a separate interstate / intrastate freight terminal and associated warehousing and estate works (SSD 5066).

The site and surroundings

The MPE site is located on the eastern side of Moorebank Avenue, and forms the eastern section of the Moorebank Intermodal Terminal Precinct (refer to **Figure 1**).

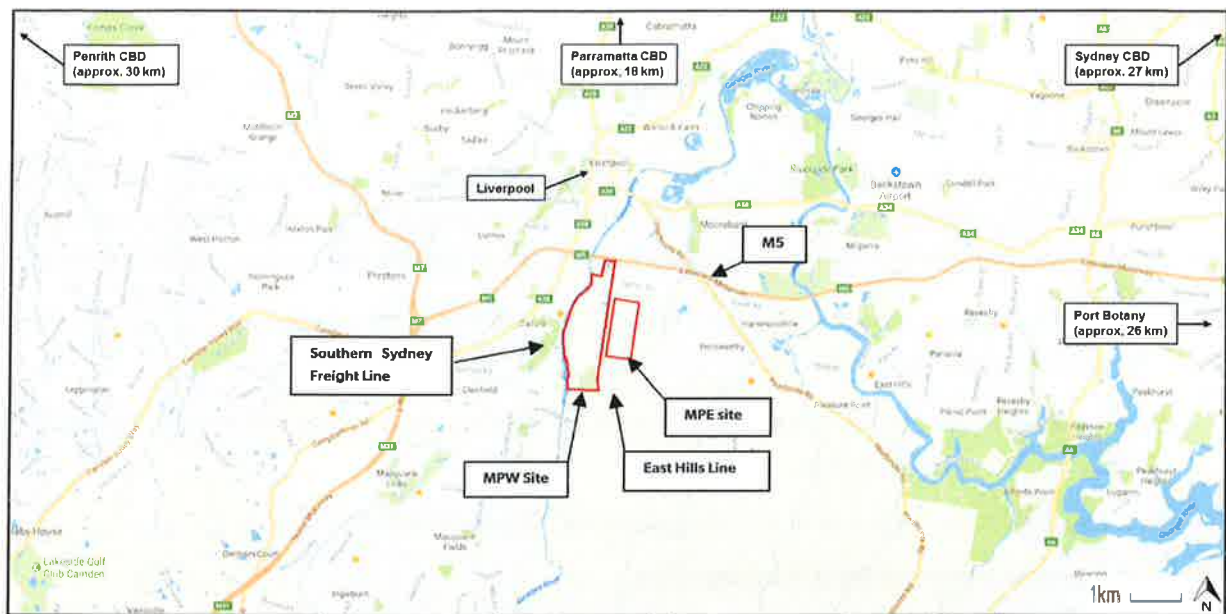


Figure 1 | Site location (outlined red) (Base source: Google Maps)

The MPE site is generally rectangular in shape, being approximately 1.4 km long by 600 m wide, and covers an area equal to approximately 95 ha. It is situated between Moorebank Avenue to the west; residual, densely vegetated, Commonwealth Land to the east and south (known as the 'Boot Land'); and the DJLU immediately north and north-east of the site. The surrounding area is comprised of a number of different land-uses. To the north, beyond the DJLU, is the Yulong Business Park and a 200 ha industrial precinct, which supports a range of uses including freight and logistics, heavy and light manufacturing, office and business park developments.

The M5 South Western Motorway is located approximately 800 m north of the site and the Southern Sydney Freight Line is located approximately one kilometre west. East Hills Rail Line (EHRL) is approximately 600 m south of the site. The Holsworthy Military Reserve is located beyond the southern side of the EHRL. The closest residential properties to the site are located in Wattle Grove to the north-east (approximately 360 m), Wattle Grove North to the north (approximately 500 m) and Casula to the west (approximately 900 m).

Previous Approvals and Other Relevant Applications

Approved Concept Plan

On 29 September 2014, the Commission (as delegate of the Minister for Planning) approved a Concept Plan (MP 10_0193) for the use of the site as an intermodal facility, which includes:

- a rail link to the Southern Sydney Freight Line (SSFL) within an identified rail corridor
- warehouse and distribution facilities
- freight village (ancillary site and operational support services)
- stormwater, landscaping, services and associated works.

On 12 December 2014, the Commission approved a modification to the Concept Plan approval (MP10_0193 MOD 1) for revisions to the land description, voluntary planning agreement and statement of commitments.

On 31 January 2018, the Commission (as delegate of the Minister of Planning) approved a second modification to the Concept Plan approval (MP10_0193 MOD 2). The modification approval included provision for the concept of subdivision, subject to a future staged development consent.

MPE Stage 1

On 12 December 2016, the Commission (as delegate of the Minister of Planning) approved Stage 1 (SSD 6766) for construction and operation of the following:

- intermodal facility operating 24 hours a day, seven days a week handling container freight with a volume of up to 250,000 twenty-foot equivalent units (TEU) per annum, including truck processing and loading area, rail loading and container storage areas, and an administration facility and associated car parking
- a rail link running adjacent to the East Hills Rail Line, connecting the southern end of the site to the Southern Sydney Freight Line
- associated works including rail sidings, vegetation clearing, remediation and levelling works, and drainage and utility installation.

Construction works for the intermodal terminal are substantially progressed on the site.

Relevant Planning History of Neighbouring Sites

On 3 June 2016, the Commission (as delegate of the Minister of Planning) approved applications for the adjacent MPW (SSD 5066) site:

- Concept Approval: the use of the site as an intermodal facility, including a rail link to the Southern Sydney Freight Line, warehouse and distribution facilities and associated works
- Stage 1 Early Works: demolition of buildings, including services termination and diversion, rehabilitation of the excavation / earthmoving training area, remediation of contaminated land, removal of underground storage tanks, heritage impact remediation works, and the establishment of construction facilities and access including site security.

The MPW Stage 1 early works are ongoing.

The Department is assessing a further two applications relating to the MPW site. These applications relate to the construction and operation of the intermodal rail terminal on site, and associated warehousing and freight village, and include the following:

- Modification application for SSD 5066 (MOD 1):
 - Importation of 1,600,000 m³ of fill for bulk earthworks
 - Amendment to the intermodal terminals, warehousing, freight village, parking, increase building heights and the number of onsite detention basins
 - Reclassification of intermodal terminal to handle interstate, intrastate and Port shuttle freight and connectivity between MPW and MPE
 - Consolidation of staging
 - Inclusion of subdivision
 - Expansion of the site boundary during construction to allow works on neighbouring sites
- State significant development application for SSD 7709 (Stage 2 works):
 - Earthworks including the importation of 1,600,000 m³ of fill and vegetation clearing
 - Intermodal terminal facility to accommodate 500,000 TEU container throughput capacity
 - Rail link and internal road infrastructure

- 215,000 m² GFA of warehouse use
- Freight village including 800 m² GFA retail use
- Upgrade of Moorebank Avenue/Anzac Road intersection
- Ancillary works including utilities installation/connection, signage and landscaping.

2. Project

The project involves the subdivision of the MPE site, to support the long term sub-lease of individual parts of the approved MPE development.

Following determination of the balance of the MPE Stage 2 proposal, the Applicant provided a report providing further information regarding the subdivision proposal (the 'Subdivision Report').

The Applicant proposes to sublet parts of the MPE site to companies that would operate warehousing and distribution activities on site. These sub-leases would each cover different parts of the MPE site, which is currently one large parcel of land, and the durations of those leases are intended to be greater than five years in length. Long term lease arrangements are not uncommon on large-scale warehousing projects; however, 5+ year leases must relate to *one or more* specific, registered parcels of land, not *parts* of a parcel of land. Therefore, the Applicant seeks development consent to subdivide the site into separate lots that it can individually lease for 5+ years.

While this proposal is an assessment of part of the development application for MPE Stage 2, the scope of the Department's assessment is limited to the subdivision part of the application. The balance of the project was determined by the Commission in 31 January 2018. The proposal does not include provision for any physical works; those works were determined as part of the Commission's approval of MPE Stage 1 and MPE Stage 2.

The main components of the subdivision proposal are outlined below.

Table 1 | Main Components of the Subdivision Proposal

Aspect	Description
Project Summary	Torrens title subdivision of Lot 1 DP 1048263 into five lots for the approved intermodal rail facility and associated warehousing The subdivision may be staged where required (see eg. sections 5.4 and 6.2).
Uses and Activities	This proposal is for the subdivision of the site to facilitate long-term leasing of warehouse and distribution facilities
Site Area	Approximately 83 hectares
Access	Access via Moorebank Avenue
Proposed easements	Drainage, services, access/right of carriageway
Proposed lots	Five; see Table 2 for description
Minimum lot size	11.76 ha (proposed Lot 24) – each proposed lot exceeds 2000 m ² minimum lot size prescribed in Liverpool Local Environmental Plan 2006

Subdivision Layout and Design

The subdivision area relates to the broader MPE site, encompassing both MPE Stage 1 and MPE Stage 2 sites. The subdivision plan layout within MPE, including the proposed lot dimensions, is shown in **Figure 2**. Finally, an overlay of the proposed lots on the proposed MPE Stage 2 development is shown in **Figure 3**.

The Department notes that the subdivision proposal has altered since the Commission's determination of the balance of MPE Stage 2. Importantly, the Applicant has removed provision for an east-west access way provided on the northern boundary of the site. As noted in section 5.10 of the Department's Environmental Assessment Report, that access way related to 'future access' which does not form part of the Stage 2 application, or the Concept Approval as approved. As the Department had recommended in its recommended conditions for MPE Stage 2, the Applicant has removed the access way.

Table 2 | Proposed MPE Subdivision Lots

Proposed lot Deposited Plan	Lot size	Description	Key land uses
Lot 21 DP 1048263	12.72 ha	North-eastern corner of the Proposal Site	MPE Stage 2 Warehouse 2 Internal roads, services and drainage
Lot 22 DP 1048263	18.72 ha	Central portion of the Proposal site, excluding land within the Stage 1 intermodal terminal facility	MPE Stage 2 Warehouses 3, 4 and 5 Internal roads, services and drainage
Lot 23 DP 1048263	20.90 ha	Southern portion of the Proposal site, excluding land within the Stage 1 intermodal terminal facility	MPE Stage 2 Warehouses 6, 7 and 8 Internal roads, services and drainage
Lot 24 DP 1048263	11.33 ha	North-western corner of the Proposal site	MPE Stage 2 Warehouse 1 Site access via Moorebank Avenue Internal roads, services and drainage
Lot 25 DP 1048263	19.24 ha	South-western portion of the site, comprising the IMT facility (Terminal Lot)	MPE Stage 1 Intermodal rail terminal Site access via Moorebank Avenue Internal roads, services and drainage



3. Strategic Context

3.1 Project Need and Justification

The NSW Government is committed to increasing the share of containerised freight moved throughout Sydney by rail. As stated in the NSW Freight and Ports Plan (2018), intermodal terminals within Greater Sydney are critical for increasing the utilisation of the rail freight network, particularly containers to and from Port Botany.

The Moorebank Intermodal projects are an important part of achieving the Government's strategic aim to increase the road to rail share of rail freight. The Moorebank Intermodal is identified as an important freight and logistics precinct in Building Momentum: State Infrastructure Strategy 2018-2038 (INSW 2018). The Strategy indicates that the terminal is one of the highest priority investments necessary to achieve a target of carrying 40 per cent of containerised traffic on rail to and from Port Botany.

The proposal is consistent with Greater Sydney Commission's A Metropolis of Three Cities – the Greater Sydney Regional Plan, which aims to facilitate a freight and logistics network that is competitive and efficient. The Liverpool LGA is within Western Parkland City, and the Western City District Plan acknowledges the projects as follows:

Investment in potential dedicated freight corridors will allow a more efficient freight and logistics network. Moorebank Intermodal Terminal is currently under construction in western Sydney, and will provide an integrated service including interstate terminals, warehousing, retail and service offerings, and rail connection to the Southern Sydney Freight Line, which also provides dedicated freight rail access all the way to Port Botany. Transport for NSW and the Australian Government are committed to supporting efficient movement of goods close to the Moorebank Intermodal Terminal by facilitating freight rail and road access.

Subdivision is proposed in order to allow the Applicant to lease warehouses on the site for longer periods, to support medium to long term use of the site. The Department considers that that longer term utilisation of site is important to achieving the strategic benefits of the project, and that as such there is a strategic justification for the proposal.



4. Statutory Context

4.1 State Significant Development

The proposal for subdivision remains part of the State significant development application for MPE Stage 2 (SSD 7628). The overall MPE Stage 2 application is SSD under section 4.36 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as the development has a CIV in excess of \$50 million and is for the purpose of warehouses and distribution centres (including container storage facilities), which is identified as SSD under clause 12 of Schedule 1 of *State Environmental Planning Policy (State and Regional Development) 2011* (SRD SEPP).

In accordance with Clause 8A of the SRD SEPP and section 4.5 of the EP&A Act, the Commission is the declared consent authority as, during the exhibition of the overall development application for MPE Stage 2 (SSD 7628):

- Council made an objection; and
- there were more than 25 public submissions made by way of objection.

While the Commission's 31 January 2018 partial consent for MPE Stage 2 application excluded subdivision, the proposal for subdivision remains an active part of the MPE Stage 2 application that was submitted and exhibited. The practical effect of the partial consent excluding subdivision is that:

- the subdivision part of the application remains active (that is, neither approved nor refused)
- the Applicant has the ability to submit additional information regarding subdivision after the partial consent, still as part of the MPE Stage 2 application, without requiring a new development application to be submitted
- the Commission can determine the subdivision part of the MPE Stage 2 application at a later date, as part of the same development application (SSD 7628)
- the formal legislative requirements that were completed for assessment of the overall MPE Stage 2 application, including exhibition, provision of land owners' consent, and payment of the development application fees, have also been completed for the subdivision part of the application.

4.2 Permissibility

The site is identified as being located within the IN1 General Industrial Zone and SP2 Infrastructure zone by the Liverpool Local Environment Plan 2008:

- IN1 General Industrial Zone: 'freight and transport facility', 'warehouse or distribution centres' and 'flood mitigation works' are permissible with consent within the General Industrial Zone; and
- SP2 Infrastructure Zone: 'roads' are included within the Infrastructure zone.

The MPE Stage 2 development application, of which this subdivision proposal is part, is permissible with consent under the Liverpool Local Environment Plan 2008.

4.3 Other Approvals

Under section 4.41 of the EP&A Act, a number of other approvals are integrated into the State significant development approval process, and consequently are not required to be separately obtained for the proposal.

Under section 4.42 of the EP&A Act, a number of further approvals are required, but must be substantially consistent with any development consent for the proposal (e.g. approvals for any works under the *Roads Act 1993*).

Additionally, it is noted that a subdivision certificate may be issued by an accredited certifier for a subdivision that is State significant development (whether or not the subdivision involves subdivision works), under clause 10 of the SRD SEPP. Should this proposal be approved, the Applicant would be required to seek a subdivision certificate prior to subdivision occurring.

4.4 Mandatory Matters for Consideration

Section 4.15 of the EP&A Act outlines the matters that a consent authority must take into consideration when determining development applications. These matters could be summarised as:

- the provisions of environmental planning instruments (including draft instruments), planning agreements, and the EP&A Regulations
- the environmental, social and economic impacts of the development
- the suitability of the site
- any submissions
- the public interest, including the objects of the EP&A Act and the encouragement of ecologically sustainable development (ESD).

The Department has considered all of these matters in its assessment of the project, as well as the Applicant's consideration of environmental planning instruments in its assessment report, as summarised in **section 6** of this report. The Department has also given consideration to the relevant provisions of the environmental planning instruments in **section 4** and **Appendix C**.

5. Engagement

5.1 Department's Engagement

The Department publicly exhibited the overall MPE Stage 2 application from 13 December 2016 until 24 February 2017 (74 days). The application was exhibited on the Department's website, at the NSW Service Centre and at the Liverpool City Council's office. The Department advertised the public exhibition in the Sydney Morning Herald, Daily Telegraph, Liverpool Leader and Campbelltown Macarthur Advertiser on 14 December 2016, and also notified landowners and relevant State and local government authorities in writing.

The Department also met with representatives of the local community and stakeholder groups on 9 March 2017 to better understand the issues raised in submissions.

5.2 Submissions

The Department received advice from seven public authorities, and 197 submissions from the general public, during exhibition of the overall MPE Stage 2 development application. Copies of the submissions may be viewed at **Appendix A**.

The Department has considered the comments raised in the public authority advice and public submissions during the assessment of the application. The content of submissions is summarised below.

Table 3 | Summary of public authority advice to the EIS exhibition

Agency	Comments
Liverpool City Council (Council)	<p>Council objected to the proposal on the following grounds:</p> <ul style="list-style-type: none">• impacts from the Concept Plan and Stage 1 Approval are yet to be adequately assessed and mitigated• the application should be held in abeyance pending the outcome of the modification (MP 10_0193 MOD 2)• traffic congestion and associated impacts on amenity are anticipated to be greater than predicted in the EIS due to the methodology and associated assumptions used• construction and operational noise and air quality impacts are likely to be greater than identified in the EIS due to the traffic assumptions used• additional discussion, survey, avoidance and mitigation of impacts on <i>Hibbertia fumana</i> should be provided in the Biodiversity Assessment Report.
Campbelltown City Council	<p>Campbelltown City Council did not object to the proposal and provided the following comments:</p> <ul style="list-style-type: none">• the reduction of truck entry points will have a detrimental impact on the efficiency of the road network• SIDRA modelling should be used in calculating intersection queue lengths and level of service, SIDRA results should be provided to allow for verification• the Traffic Management Plan should detail how truck movements along Cambridge Avenue would be restricted• constructed traffic should not use the Cambridge Road access and the Cambridge Avenue intersections have not been assessed for construction impacts• demand for car parking resulting from overlap of shift working needs to be considered

- the impact of A-double heavy vehicles should be considered as part of the traffic assessment
- clarification of what materials unsuitable for disposal at the Glenfield Waste Facility include.

Department of Primary Industries (DPI)	<p>DPI did not object to the proposal and provided the following comments:</p> <ul style="list-style-type: none"> • details on the proposed drainage works to the south of the MPE site are required • any riparian vegetation temporarily cleared for construction purposes should be actively revegetated • clarify whether the east/west concrete channel will be revegetated and repaired • the hydrological relationship of the site to Groundwater Dependent Ecosystems should be investigated • prepare a Trigger Action Response Plan dealing with groundwater, collection, testing and disposal and DPI should be notified if groundwater is intercepted or affected • mitigation measures should be updated to address clearance of vegetation, transplantation of native plant and collection of topsoil and seedbank • mitigation measures relating to erosion and sediment control, stormwater treatment, and aquatic biodiversity should be implemented during and following construction • the Applicant should consult directly with DPI.
Office of Environment and Heritage (OEH)	<p>OEH did not object to the proposal and provided the following comments:</p> <ul style="list-style-type: none"> • further information (and mitigation measures) is required of the indirect impacts of the proposed fill/earthworks on the neighbouring 'Boot Land' • the assessment of direct impacts of the proposal on biodiversity is adequate • the stormwater and flooding assessment follows accepted floodplain risk management practice.
Heritage Council of NSW (Heritage Council)	<p>The Heritage Council did not object to the proposal and stated the proposed non-indigenous archaeology mitigation measures are acceptable and recommended the Heritage Interpretation Strategy be prepared prior to works commencing on-site.</p>
NSW Environment Protection Authority (EPA)	<p>EPA did not object to the proposal and provided the following comments:</p> <ul style="list-style-type: none"> • further justification is required for out of hours construction work • further justification is required for on-site crushing and concrete batching plant • a construction noise and vibration management plan is required • reversing on the site and trucks stopping in exposed areas should be minimised • the combined maximum operational noise impacts (MPE and MPW) should be predicted/provided.
Department of Industry Resources and Energy (DOI)	<p>DOI does not object to the proposal and confirmed it would not have any mineral resource impacts and there are no current mineral, coal or petroleum titles over the site.</p>

Table 4 | Summary of the public submissions on the proposal

Issue	Number of Submissions	Proportion of submissions
Traffic impacts	101	51%
Suitability of the site	55	28%
Biodiversity impacts	49	25%
General / unstated opposition to the proposal	48	24%
Noise impacts	38	19%
Contamination and pollution	37	19%
Health impacts	34	17%
Air quality impacts	31	16%
Impact of importation of fill	21	11%
Insufficient community consultation	11	6%

Light spill impacts	11	6%
Hours of operation / construction	10	5%

Other issues raised in less than 5% of submissions include cultural heritage, flooding and employment impacts.

It is noted that the plans for subdivision were included in the original MPE Stage 2 assessment, which was publicly exhibited as noted in **section 5.1**. At the time, a total of four submissions received during the exhibition period from the public indicated concern over the subdivision proposal. These concerns were related to whether the subdivision would allow for further developments that were not subject to the overall consent for the site, and if the subdivision would further impact on the ecological and environmental aspects of the area.

5.3 Response to Submissions

The Applicant provided a response to the issues raised in submissions in the form of a Response to Submissions Report (see **Appendix A**), which included amendments to OSD Basin 1 and inclusion of a spillway at the north-eastern corner of the site, the length of the Moorebank Avenue upgrade, warehouse layout, drainage design to the south of the MPE site, and changes to the construction and operational area as a result of these amendments.

The Response to Submissions Report noted the Applicant's position that:

The intent of the subdivision is to segregate the IMT[intermodal terminal] and warehouse and distribution facilities, and to facilitate long term leases on land associated with warehousing, the freight village and general infrastructure. This will not impact on how the Proposal Site is assessed by DPE as part of future applications.

The RtS was published on the Department's website, and referred to Government agencies for comment. Agency submissions are available on the Department website. Consequently, the Applicant provided additional information following exhibition to address matters raised by the Department and Government agencies.

Each of the matters raised was considered in detail in the Department's recommendation to the Commission in November 2017.

5.4 Subdivision Ancillary Report

Following the Commission's determination of MPE Stage 2, the Applicant prepared and submitted further information relating subdivision: The *Subdivision Ancillary Report: Moorebank Precinct East Stage 2 (SSD 7628)* (Aspect Environmental, 2018).

The Applicant provide additional information at two additional times during the assessment of the proposal:

- 12 December 2018: to provide a revised draft subdivision plan and map showing revised lot boundaries
- 19 December 2018: to provide additional information about the proposal to stage the subdivision based on possible staged occupation of the site.

These documents were published on the Department's website. No submissions were received relating to the document.



6. Assessment

The Department has undertaken a comprehensive assessment of the merits of the proposal for subdivision. This report provides a detailed discussion of the key issues associated with the proposal.

In conducting this assessment, the Department has closely considered the issues raised in the Commission's determination of the MPE Stage 2 proposal.

A list of the key documents that informed the Department's assessment is provided in Appendix A.

6.1 Compliance with future environmental assessment requirements

While development consent has not been provided to subdivision, the Commission, in approving the MPE Concept MOD 2 and incorporating subdivision as part of the concept approval, has given clear guidance 'that it supports the principle and logic of subdivision for the [MPE] site, subject to detailed assessment of any subdivision proposals'. Accordingly, the subdivision proposal has been assessed against the Commission's adopted future environmental assessment requirements for subdivision, which are set out in the concept approval as modified on 31 January 2018.

Subdivision plan and required details

The Applicant has provided a subdivision plan and supporting documentation that it contends 'details all common land, access roads and services including drainage works required to maintain internal connections and interdependencies between the individual intermodal functions within the development site', which is the first of the future environmental assessment requirements prescribed in the Concept approval.

The proposed subdivision plan is extracted in **section 2** of this report. The plan itself does not clearly show the locations of common land, access roads and services including drainage works— matters that were raised in the earlier MPE Stage 2 Recommendation Report considered by the Commission. Instead, those 'estate works' are shown overlaid on the subdivision plan in **Figure 3**, described in the supporting document, and outlined in greater detail in the Environmental Impact Statement, Response to Submissions and Supplementary information submitted as part of the SSD 7628 application. The overall layout of the site and provision of estate works was approved in the Commission's determinations of MPE Stage 1 and MPE Stage 2, subject to the amendments required in conditions (see **section 6.3** for further discussion).

The Applicant asserts that physical works required to service the whole of site will be catered for in the five proposed lots through a series of easements that are either already in place or would be brought into place upon registration of the land. In summary, the proposed easements are generally divided as follows:

Table 5 | Summary of the proposed easements

Easement category	Affected lots	Description	Status ('easement reference letter')
Easements for access	All lots	Access to Moorebank Avenue	Existing ('B')

		Internal access	
Easements for access	All lots	Access to Moorebank Avenue	Future ('L', 'S')*
Easements for access	All lots	Access to potential Moorebank Avenue realignment (future proposal, not approved)	Future ('D')*
Services and drainage	22, 23, 25	Water supply	Existing ('M')
Services and drainage	All	Services and drainage	Future ('A1', 'C', 'E1', 'E2')*

* *Future easements — the location of which the Applicant has not detailed on the plans of subdivision provided for the Department's consideration*

¹ *'Easement reference letter' (eg. 'A1', 'B') is the letter given to the easement in the draft instrument setting out the proposed terms of easements*

The Applicant has provided a draft instrument setting out the proposed terms of easements intended to be created, in the form prescribed under the *Conveyancing Act 1919*.

The Department is satisfied that the proposed commitment to an easement are sufficient to provide for the interior inter-lot access and infrastructure critical to the integrated operation of the site. However, the Department is concerned that at this time the final location of those estate works is unable to be detailed on the plan of subdivision for which consent is being sought.

This is associated with outstanding resolution of the final drainage details and uncertainty regarding the final location of onsite detention (OSD) basin areas on site, and final drainage works to these OSD areas. Accordingly, it is appropriate that the subdivision plan not be registered until evidence of finalisation of these works and their location has been surveyed and verified. The final subdivision plan should be approved by the Planning Secretary before a subdivision certificate is issued by the Certifying Authority.

Maintenance entity

Key to the Department's consideration of subdivision as part of the MPE Stage 2 and Concept modifications was avoiding the prospect of site fragmentation, should the site be subdivided and each lot operated independently. The Department's review of the Applicant's MPE Stage 2 application, and the conditions recommended (and ultimately adopted by the Commission), envisaged that the site would require active and adaptive management of operational infrastructure throughout the life of the project – hence, it was important that subdivision would not in any way reduce the ability to comply with the operational requirements and conditions. The Department considered that the Applicant should be required to be managed by a single entity with overall responsibility for the site and compliance with the relevant development consents.

In its determination of the Concept modification, the Commission noted the Department's intent that any proposed subdivision needed to be 'appropriate to the purpose and ongoing sustainable management of the facility and the site', and 'ensure the intent of the original Concept Plan approval, namely that it be an integrated intermodal facility.' The Commission therefore determined to impose a future environmental assessment requirement that the Applicant 'identify the entity(s) responsibility for the delivery and ongoing maintenance within the intermodal estate of site services, internal roads, pedestrian paths, landscaping, lighting of common areas, emergency services including bushfire mitigation, OSD and Water Sensitive Urban Design elements'.

The Applicant has subsequently provided additional information that sets out that delivery and ongoing maintenance of the estate works would be conducted by or on behalf of Qube, as the head-tenant of the site (Qube, in turn acting on behalf of SIMTA, the Applicant for SSD 7628). The Applicant states that the commercial arrangements governing the site establish Qube as a 'Project Delivery Company', with responsibility to manage the site under a precinct management agreement included in the agreement for lease. Qube is therefore the responsible entity for each of matters prescribed under this requirement. It is also noted that the requirements of the precinct management agreement bind Qube, and would bind sub-tenants. Further discussion of the management arrangements is provided in **section 6.2**.

Operational management

The final aspect of the subdivision future environmental assessment requirements requires the Applicant to 'provide details of the overarching operational management of the site following subdivision'. The Applicant has provided these details, which are considered further in **section 6.2**.

6.2 Operational management and fragmentation

The Applicant proposes that the site would be operated in accordance with an overarching Precinct Operational Environmental Management Plan (OEMP), that encompasses the environmental management measures covered by the OEMP required for the balance of MPE Stage 2.

The commercial arrangements for the site invest responsibility for managing the site in the head tenant, Qube. Qube is nominated as the 'Project Delivery Company', responsible for developing and operating the site under a Development and Operations Deed entered into with the Moorebank Intermodal Company under a land trust that administers the head lease. Qube is responsible to the land trust to conduct works and activities on the site under an Agreement for Lease for each of the IMEX (import/export) terminal, interstate terminal and warehouses.

The Applicant asserts that the Agreements for Lease include a Precinct Management Agreement that enshrines the responsibility for Qube to manage the site holistically, in accordance with the conditions of consent that govern the site. The Applicant concludes that the implementation of that OEMP, once approved, is ultimately the responsibility of the precinct development company, but would also extend to individual warehouse tenants.

The Department's assessment of the acceptability of subdivision is predicated on the principle that subdivision should not reduce or restrict opportunities to manage the intermodal development as a single operation. As outlined in the Department's November 2017 recommendation report for MPE Stage 2, the Department sought assurances about holistic management of the site in relation to operational elements including bushfire hazard, provision of emergency services and access, fencing, signage, weed management, landscaping management, noise, air quality, water quality and quantity, water recycling, ESD, visual impacts, light spill from common areas and individual tenancies, and materials handling in compliance with screening thresholds for dangerous goods.

The Applicant's supplementary information asserts that the legal framework governing the site would support the delivery of required development elements, and management and maintenance during operation. The report states that Qube would retain responsibility for all the elements listed above, except for materials handling within limits prescribed for dangerous goods, which would remain within the responsibility of individual tenants.

The Department reiterates that management of the site requires compliance with conditions incorporating not just the OEMP requirements set out in MPE Stage 2 consent, but also those in the MPE Stage 1 consent, as well as

operational terms of approval governing both projects and all development in the Concept Plan approval. As such, the Department has recommended conditions requiring the Applicant to describe how it will conduct the whole of site management approach in an OEMP, which can be prepared to form part of the OEMP documents prepared for MPE Stage 1 and MPE Stage 2. The OEMP will need to be approved by the Planning Secretary before the final plan of subdivision can be registered.

The Department notes that the Applicant submitted revised information outlining its intention for a staged subdivision, seeking to allow for subdivision of individual lots to take place incrementally as demand arises for the warehousing. The proposal would not alter the structure and layout of the subdivision, but would potentially allow for individual lots to be created in advance of a full subdivision as tenants are identified. The Department accepts this approach, noting that it would provide flexibility to create new lots to support long-term sub-letting where required, and also to preserve the existing lot where Qube would remain the warehouse operator (and a new lot would not be required to enable long term sub-lease for operation). The Department considers that staged subdivision is acceptable if the Applicant maintains a commitment to providing all relevant estate works (including but not limited to site services, internal roads, pedestrian paths, landscaping, lighting of common areas, emergency services including bushfire mitigation, OSD and Water Sensitive Urban Design elements) before subdivision can occur, and has recommended conditions to this effect.

6.3 Subdivision structure and layout

The Department has reviewed the proposed subdivision layout against the approved project layout set in the MPE Stage 2 consent. Overall, the proposed subdivision plan splits the site into two main sections, being the intermodal rail terminal area (a single lot), and the associated warehousing and freight village development area which would be further subdivided into four lots, encompassing the locations of between one and three approved warehouses.

The Department notes that the subdivision plan at a high level corresponds to the approved development pattern across the broader MPE site.

However, the Department does note that the final development layout plans required to be submitted under condition A22 of the MPE Stage 2 consent have not yet been approved by the Planning Secretary. Additionally, the final development layout plan is informed by a number of other plans — such as water sensitive urban design plans, stormwater and drainage systems and architectural plans — which have also not yet been approved. Together, these plans are required to demonstrate how the Applicant has achieved the improvements and design revisions referred to in the Department's conditions relating to drainage, water sensitive urban design, and landscape design. The Department confirms that these plans are under review with reference to the detailed requirements prescribed under conditions A23, B140 and B141. Those requirements include provision, for example, for revised OSD basin layouts and drainage channels and pipes across the site.

In this regard, the Department acknowledges the Applicant's approach is to establish a series of easements across the site, to ensure that the final development layout plan is legally supported, inclusive of the final drainage and landscaping schema, and is facilitated across the individual warehouse lots that may be separately operated.

The Department has recommended conditions that reiterate the need to formalise these easements prior to subdivision taking place.



7. Evaluation

The Department has assessed the proposal against the matters listed in section 4.15 of the EP&A Act and the objects listed in section 1.3 of the EP&A Act, including the principles of ESD. The Department has considered the application on its merits, taking into consideration the strategic plans that guide development in the area and the SEPPs that apply to the proposal.

The Department considers that the additional information provided supports the application for subdivision which is required for long term leasing of the warehousing precinct. By implementing legal, management and maintenance conditions, the potential for fragmentation of the site would be reduced. A clear understanding of overall management of the site is required, and Qube have committed to maintain the overarching site as well as potential tenants. It is appropriate that the Planning Secretary's approval of the OEMP occur before the subdivision can be registered.

The Department's assessment concludes the impacts of the development can be managed to ensure an acceptable level of ongoing environmental management subject to the recommended conditions of consent, including:

- subdivision taking place in accordance with the final development layout plans for MPE Stage 2 when they are approved by the Planning Secretary
- creation of easements consistent with the final drainage and water sensitive urban design plans when those plans are approved by the Planning Secretary to ensure that whole of site access and infrastructure is protected and can be managed accordingly
- implementation of the centrally-administered management framework described in the ancillary report.

The Department concludes the proposed subdivision can be appropriately managed and implemented through the recommended conditions of consent. As such, the Department considers that the subdivision proposal is approvable, subject to conditions.

This assessment report is hereby presented to the Commission for determination.

Endorsed by:

Karen Harragon

Director

Social and Other Infrastructure Assessments

Endorsed by:

David Gainsford

Executive Director

Priority Projects Assessments



Appendices

Appendix A – List of documents

MPE Stage 2

Environmental Impact Statement

- *Moorebank Precinct East - Stage 2 Proposal: Environmental Impact Statement*, prepared by Arcadis, dated December 2016

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7628

Submissions

- See online

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7628

Response to Submissions

- *Moorebank Precinct East - Stage 2 Proposal: Response to Submissions – SSD 16_7628*, prepared by Arcadis, dated July 2017

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7628

Agency advice

- See online

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7628

Supplementary Information

- *MPE Stage 2 – Consolidated assessment clarification responses*, prepared by Arcadis, dated November 2017.

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7628

Recommendation Report

- *State Significant Development Assessment Report: Moorebank Intermodal Terminal, Moorebank Precinct East Moorebank Avenue, Moorebank SSD 7628*, prepared by the Department of Planning and Environment, dated November 2017

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7628

Determination Report

- *NSW Planning Assessment Commission Determination Report – Moorebank Intermodal Terminal, Stage 2, Moorebank Precinct East (SSD 7628)*, prepared by the Planning Assessment Commission, dated January 2018

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7628

Subdivision Report

- *Subdivision Ancillary Report, Moorebank Precinct East Stage 2 (SSD 7628)*, prepared by Aspect Environmental, prepared August 2018

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7628

Additional Information – 12 December 2018

- *MPE Stage 2 Subdivision Application*, prepared by SIMTA, prepared 12 December 2018

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7628

Additional Information – 19 December 2018

- *MPE Stage 2 SSD 7628 – Subdivision*, prepared by SIMTA, prepared 12 December 2018

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7628

MPE Concept MOD 2

MPE Concept MOD 2 Determination Report

- *NSW Planning Assessment Commission Determination Report – Moorebank Precinct East Concept Plan MOD 2 (MP 10_0193 MOD 2)*, prepared by the Planning Assessment Commission, dated January 2018

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8149

Appendix B – Statutory Considerations

In line with the requirements of section 4.15 of the EP&A Act, the Department's assessment of the proposal has given detailed consideration of a number of statutory requirements. These include:

- The objects found in section 1.3 of the EP&A Act
- The matters listed under section 4.15 (1) of the EP&A Act, including applicable environmental planning instruments and regulations.

The Department has considered all of these matters in its assessment to the project and has provided a summary of this assessment below.

Aspect	Summary
Objects of the EP&A Act	<p>The object of most relevance to the decision on whether or not to approve the proposal is section 1.3 (c) - to promote the orderly and economic use and development of land.</p> <p>The Department considers that the proposal promotes the orderly and economic use and development of land, by facilitating the long term leasing of warehouses to support the intermodal rail freight terminal. Long term use is envisaged under the development consent, which permits ongoing operations at the site. The Department considers that permitting subdivision with the recommended conditions would allow the Applicant to enter into long term commercial arrangements for use of the site in accordance with the MPE Stage 2 consent, while ensuring long term management of the wider estate works would be coordinated effectively by an overarching management entity.</p>
Environmental planning instruments	<p>The Liverpool Local Environmental Plan 2008 applies to the proposal, and is discussed in sections 4 and 6 of this report. The MPE Stage 2 proposal, of which subdivision forms part, is permissible under the Liverpool Local Environmental Plan 2008. Further discussion of permissibility is provided in section 2.</p> <p>The Liverpool Local Environmental Plan 2008 prescribes a minimum lot size of 2000 m² for the site. As noted in Table 1 of this report, the proposal complies with the minimum lot size requirement, as the smallest proposed lot size is 11.76 ha (117,600 m²).</p>

Appendix C – Recommended Instrument of Consent

