



Modification of Consent (Mod 1) State significant development SSD 7628



SIMTA

SYDNEY INTERMODAL TERMINAL ALLIANCE

Part 4, Division 4.1, State Significant
Development

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Modification 1

Moorebank Precinct East Stage 2 (SSD 7628)

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REVISIONS

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1	15/08/2018	Draft	Andrew Wiltshire; Richard Johnson	Richard Johnson
2	21/09/2018	Final V1	Richard Johnson	Michael Yiend
3	03/01/2019	Final V2	Andrew Wiltshire; Richard Johnson	Michael Yiend

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1.0 Introduction

This modification application has been prepared by Aspect Environmental Pty Limited on behalf of SIMTA (as Qube Holdings Limited) (the Applicant), pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify the State significant development consent SSD 7628 for the second stage of development of the Moorebank Intermodal Precinct East (MPE) site.

The modification application seeks the following:

- revision of the controls relating to building signage as part of the Signage Sub Plan, as set out in Condition B141(f) of the consent;
- revision of the specified timing requirements for road upgrades, as set out in Condition B13 of the consent; and
- revision of the biodiversity offset credit requirements, as set out in Condition B104 of the consent.

In addition to the modifications to Condition B141(f), Condition B13 and Condition B104, identified above, request is also made to modify various conditions of the consent instrument to provide correct referencing to avoid potential misinterpretation and to facilitate effective compliance by the Applicant.

This application identifies the consent, describes the proposed modification and provides an assessment of the relevant matters contained in Section 4.55(1A) of the EP&A Act. It should be read in conjunction with the consent SSD 7628.

2.0 The site

The Moorebank Precinct East (MPE) site, including the MPE Stage 2 Project site, is located approximately 27 km south-west of the Sydney central business district and approximately 26 km west of Port Botany. The MPE site is situated within the Liverpool local government area, in Sydney's South West subregion, approximately 2.5 km from the Liverpool City Centre.

The MPE Project involves the development of an intermodal facility including warehouse and distribution facilities, freight village (ancillary site and operational services), stormwater, landscaping, servicing and associated works on the eastern side of Moorebank Avenue, Moorebank.

The MPE Stage 2 Project (SSD 7628) involves the construction and operation of warehousing and distribution facilities on the MPE site and upgrades to approximately 1.5 kilometres of Moorebank Avenue (Figure 1).

Key components of the Project include:

- Earthworks, including the importation of 600,000 m³ of fill and vegetation clearing
- Warehousing and additional ancillary offices comprising approximately 300,000 m² GFA

- A freight village, comprising 8,000 m² GFA of retail, commercial and light industrial land uses
- Establishment of an internal road network, and connection of the Project to the surrounding public road network
- Ancillary supporting infrastructure within the Project site, including:
 - Stormwater, drainage and flooding infrastructure
 - Utilities relocation and installation
 - Vegetation clearing, remediation, earthworks, signage, lighting and landscaping
- An upgrade to Moorebank Avenue including the following key components:
 - Modifications to the existing lane configuration, including some widening
 - Adjusting the vertical alignment by about two metres from the existing levels, including kerbs, gutters and a sealed shoulder
 - Signalling and intersection works
- Upgrading existing intersections along Moorebank Avenue, including:
 - Moorebank Avenue / MPE Stage 2 access
 - Moorebank Avenue / MPE Stage 1 northern access
 - Moorebank Avenue / MPE Stage 2 central access
 - MPW Northern Access / MPE Stage 2 southern emergency access
- Operations being undertaken 24 hours per day and seven days per week.

The Applicant is moving forward with the development of the MPE site and construction activities related to MPE Stage 2 have commenced. As a result, the need has arisen to revisit the wording of specific conditions and their alignment with the current progression and practical requirements of the development.

MPE Stage 2 Response to Submissions

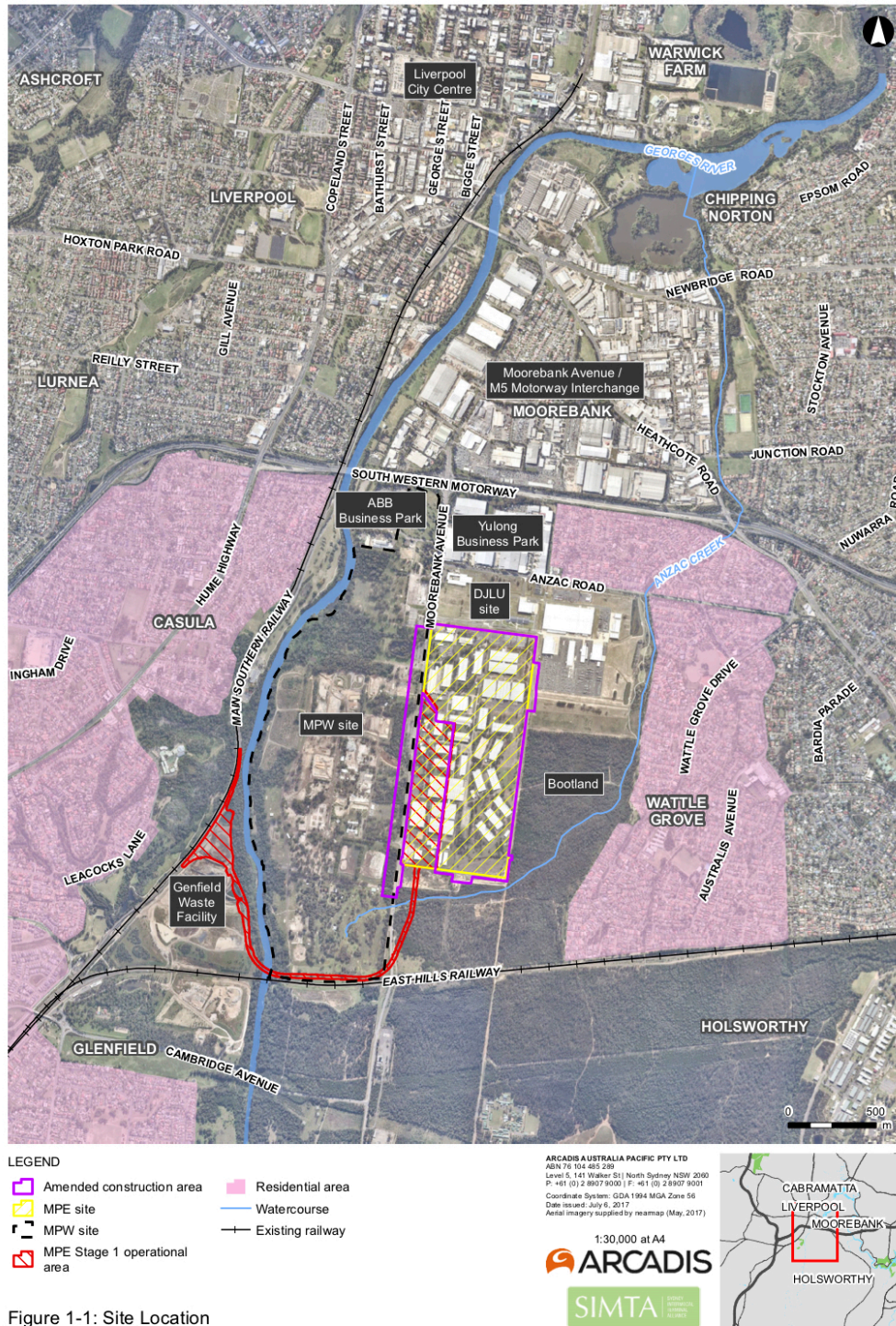


Figure 1 MPE Stage 2 site

3.0 Consent Proposed to be Modified

The Applicant submitted to the Department of Planning and Environment (DPE) an application for consent for State significant development (SSD) 7628 for Stage 2 of the Moorebank Precinct East Intermodal Project. The NSW Planning and Assessment Commission (PAC) granted consent to SSD 7628 covering the MPE Stage 2 key components, identified above, on 31 January 2018.

Under SSD 7628 Development Consent Terms of Consent, Condition A2 identifies:

- A2. The development may only be carried out:
- (a) in compliance with the conditions of this consent;
 - (b) in accordance with all written directions of the Secretary in relation to this consent;
 - (c) in accordance with the EIS, Submissions Report, Consolidated assessment clarification responses, and updated Biodiversity Assessment Report;
 - (d) in accordance with the amended Development Layout Plans and Design Plans, amended WSUD plans and amended architectural plans to be submitted for the Secretary's approval as part of this consent; and
 - (e) in accordance with the management and mitigation measures at APPENDIX B of this consent.

Section 4.2 of the submitted EIS (Arcadis 2016) addressed the built form for the project including provision of warehouse signage. Section 4.2 referenced Appendix D of the EIS, which presented architectural drawings of warehouse elevations and external finishes identifying tenant signage and warehouse numbering. Tenant signage and warehouse numbering are also included within Appendix B1 Revised Architectural Drawings of the Response to Submissions documentation (Arcadis, 2017).

Condition of consent (CoC) A4 of the SSD 7628 consent identifies that the conditions of consent prevail

to the extent of any inconsistency, ambiguity or conflict between them and any of the documents listed in condition A2(c) ... For the purpose of this condition, there will be an inconsistency between documents if it is not possible to comply with both documents, or in the case of a condition of consent or direction of the Secretary and a document, if it is not possible to comply with both the condition or direction and the document.

4.0 Proposed Modification

As outlined in Section 1, the proposed modification seeks the revision of the controls relating to building signage as part of the Signage Sub Plan, as set out in Condition B141(f) of the consent, to remove the inconsistency with

- the submitted documentation within Appendix D Architectural Drawings of the EIS (Arcadis, 2016) and Appendix B1 Revised Architectural Drawings of the Response to Submissions (RtS) (Arcadis, 2017) and the implementation of the condition.
- The implementation of the Lighting Sub Plan required under Condition B141(b) of the SSD 7628 development consent.

Details of this modification are provided in subsection 4.1 below.

The proposed modification also seeks to amend Condition B13 relating to the prescribed timing for approval of road designs by RMS and their respective timing for implementation to be reflective of the actual progress of construction since provision of the consent. This component of the proposed modification is also required to enable alignment with the intent and commitments of provisions within the Draft VPA prepared between RMS and Qube under MPW Stage 2 SSD Application 16_7709 with respect to Works in Kind contributions. Details of this modification are provided in subsection 4.2 below.

The proposed modification further seeks to provide consistency with current OEH quantification methods with respect to biodiversity credit retirement requirements under Condition B104. Details of this modification are provided in subsection 4.3 below.

This request for modification also seeks correction of cross-references within various conditions to facilitate consistent and accurate implementation of the consent and avoid any misinterpretation. Details of this modification request are provided in subsection 4.4 below.

4.1 Modification to Condition of Consent B141(f)

Condition B141(f) requires the preparation of a Signage Sub Plan as part of the Urban Design and Landscape Plan and is provided in full below.

...

(f) Signage Sub Plan to assist in the management of individual building, wayfinding and common directory signage associated with the development. The Plan must be prepared by a suitably experienced and qualified person(s) and submitted to the Secretary for approval.

The Plan must detail the design, illumination, construction, timing and responsibility for the delivery and maintenance of individual building and common directory signage and take into account the following considerations:

- (i) provision of wayfinding signage for internal streets to individual buildings and loading docks;

- (ii) individual building signage integration within building forms no higher than 3m above the finished ground;
- (iii) no general advertising;
- (iv) no form of moving or flashing signs;
- (v) no east or south facing illuminated building signage;
- (vi) details of the location and specifications of the common directory board;
- (vii) signs are to display corporate logos and company names and must not occupy more than 10% of any façade or wall of building; and
- (viii) internally illuminated signs are not permitted.

The approved common directory board and wayfaring signs plan must be implemented prior to occupation of the warehouse and freight village.

A variety of signage types were identified and assessed as part of MPE Stage 2 SSD 7628. These were described in Table 4.5 of the Consolidated Proposal Description that was included as Appendix I of the Response to Submissions Report (Arcadis 2017), which is reproduced below as Table 1. This table has been updated to include details of sign illumination.

Table 1 Signage within the MPE Stage 2 site (adapted from Arcadis, 2017)

Signage Type	Dimensions	General locations	Illuminated (Y/N)
Type 1 – Street entry signage	Maximum 6 m height	Main site entrance off Moorebank Avenue	Y
Type 2 – Tenant identification signage	Maximum 5 m height	Warehouse entrances along and facing the internal roads	Y
Type 3 – Tenant directional signage	Maximum 3 m height	Within each warehouse area	Y
Type 4 – Corporate signage	Reference Figure 2 for typical building elevations and integrated building signage placement	Affixed to each warehouse	Y

General signage on site can be split into two broad categories: wayfinding signage, which includes access, site directional signage and tenant directional signage (Types 1 – 3); and warehouse signage, which includes corporate signage and tenant/warehouse identification (Type 4).

Signage types for wayfinding, as presented in Appendix D of the EIS (Arcadis, 2016) and Appendix I of the RtS (Arcadis, 2017) in Drawing 115123_A_SSD_3000, are provided as Figure 2, below, and in Appendix A. The primary warehouse building identification signage types are shown in Figure 3 and Figure 4, below, and in the architectural drawings provided in Appendix A, as S1 and S2.

Figures 3 and 4 identify two forms of integrated building signage as S1 (Warehouse ID number) and S2 (Tenant Signage – Backlit Illuminated Signage).

It should be noted that the architectural drawings provided in the EIS and RtS (2016 and 2017 respectively) identify corporate illuminated signage facing outwards on the eastern and southern site boundary. To support this modification application, outward facing illuminated signage has been removed from warehouses with an immediate exposure to either an eastern or southern boundary, as shown in the Warehouse 2 example provided in Figure 3 and in the 2018 updated architectural drawings for Warehouses 2, 3, 4, 6, 7 and 8 included as Appendix A.

Table 2, below identifies the proposed modification to condition of consent B141(f).

SIGNAGE STRATEGY PLAN

STATE SIGNIFICANT DEVELOPMENT

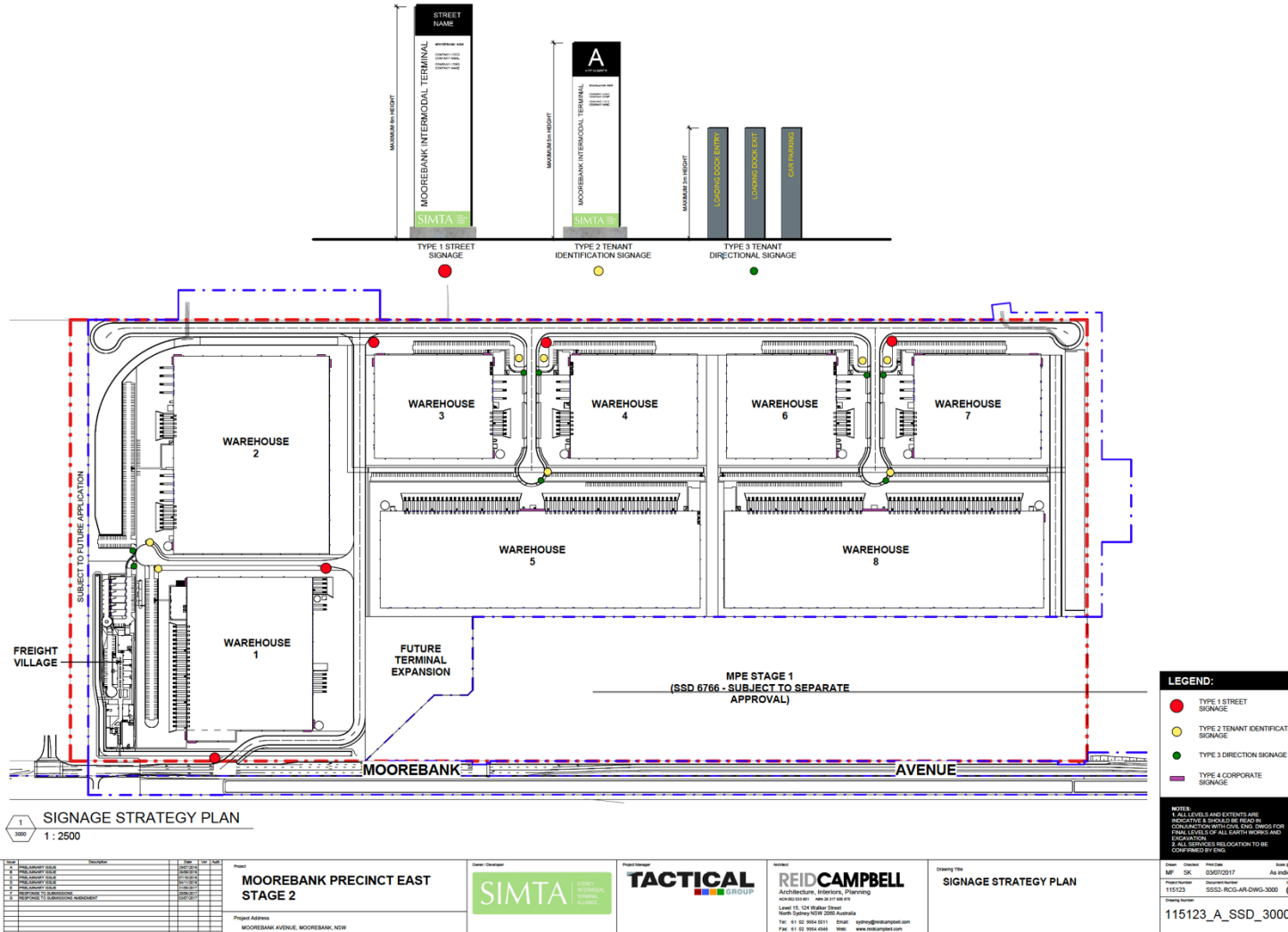
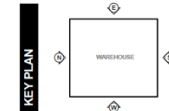


Figure 2 MPE Stage 2 SSD 7628 Signage Strategy Plan – Wayfinding (Reid Campbell 2017)

AREA A WAREHOUSE 2 EXTERNAL FINISHES

STATE SIGNIFICANT DEVELOPMENT



<p>PRIMARY COLOUR SYSTEM</p>	<p>WC1 VERTICAL METAL SHEETING "LIGHT GREY"</p>	<p>WC2 VERTICAL METAL SHEETING "WINDSPRAY"</p>	<p>WC3 VERTICAL METAL SHEETING "DARK GREY"</p>	<p>RF1 METAL PROFILED ROOF SHEETTING "SHALE GREY"</p>	<p>RF2 TRANSLUCENT SHEETING</p>	<p>PC1 PRECAST PANEL "MONUMENT"</p>	<p>S1 WAREHOUSE ID NUMBER</p> <p>S2 TENANT STORAGE</p> <p>BACKLIT ILLUMINATED SIGNAGE</p>
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NOTES:
 1. ALL LEVELS AND EXTENTS ARE INDICATIVE & SHOULD BE SUBJECT CONSULTATION WITH OUR ENG. TEAM FOR FINAL LEVELS OF ALL FINISHES AND DISCREPANCIES.
 2. ALL SERVICES RELOCATION TO BE TO BE CONFIRMED BY ENG.
 3. ALL SPECIFIED MATERIALS COLOURS ARE TO BE AS SPECIFIED OR OF SIMILAR REPRESENTATION AND PERFORMANCE.

<p>DATE: N/A</p> <p>DESCRIPTION: This drawing and design is subject to final Council approval. It is intended as a guide only. Contractors to verify all dimensions and details on site. All dimensions are to be confirmed with the client prior to commencement of work. All dimensions are to be confirmed with the client prior to commencement of work. All dimensions are to be confirmed with the client prior to commencement of work.</p>	<p>PROJECT: MOOREBANK PRECINCT EAST STAGE 2</p> <p>PROJECT ADDRESS: MOOREBANK AVENUE, MOOREBANK, NSW</p>	<p>CLIENT: SIMTA</p>	<p>PROJECT MANAGER: TACTICAL GROUP</p>	<p>DESIGNER: REID CAMPBELL</p> <p>ARCHITECTURE, INTERIORS, PLANNING</p> <p>LEVEL 15, 124 Market Street, North Sydney NSW 2060 Australia</p> <p>TEL: 61 02 9554 0511 EMAIL: www@reidcampbell.com www.reidcampbell.com</p>	<p>DRAWING TITLE: AREA A WAREHOUSE 2 EXTERNAL FINISHES</p>	<p>PROJECT NUMBER: MF SK 05/112/010</p> <p>DATE: As indicated</p> <p>PROJECT NUMBER: ASK/07</p> <p>PROJECT NUMBER: SSSS-REID-CAMPBELL-1112</p> <p>DRAWING NUMBER: 115123_A_SSD_1112</p>
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Figure 3 MPE Stage 2 SSD 7628 Signage locations - Warehouse Identification (Reid Campbell, 2018)

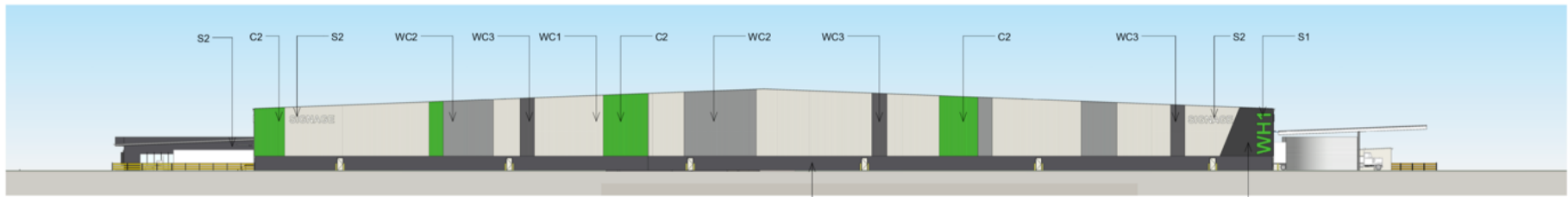


Figure 4 Example of warehouse signage S1 and S2 (Reid Campbell, 2017)

Table 2 Proposed modification to MPE Stage 2 SSD 7628 condition of consent B141(f)(ii); (v) and (viii)

Existing condition	Reason for modification	Proposed modification
<p>(ii) individual building signage integration within building forms no higher than 3 m above the finished ground;</p>	<p>Building numbering and tenant identification are required to complement road level wayfinding for site users and visitors. Integrated signage at height enables clear identification above the internal landscape provision and avoids erroneous internal traffic movements that can create unsafe reactive movements in operating environments.</p> <p>The proposed modification removes the present conflict and inconsistency between the EIS and RtS documentation</p>	<p>Delete Condition B141(f)(ii) to remove the prescription that individual building signage integration be no higher than 3 m above the finished ground.</p> <p>Remainder of B141(f)(ii) numbering would adjust accordingly.</p>
<p>(v) no east or south facing illuminated building signage;</p>	<p>Buildings are restricted to 21 m height and integrated building signage will typically be positioned around the 13 m height above ground level. Such signage would not be visible to residents to the east of the MPE site given topography, distance and existing natural vegetation and proposed perimeter landscaping vegetation. Illuminated signage would aid night-time visibility from the internal road along the eastern boundary.</p> <p>The Boot Land bio-banking area lies to the immediate south of the site, in advance of the East Hills Passenger Rail line and Holsworthy Army Barracks beyond. South facing illuminated signs on the southernmost buildings, if requested, would not have an impact on amenity based on proximity to sensitive receivers and lateral visibility from Moorebank Avenue would be screened by required boundary landscaping.</p> <p>Additionally, at least half of the MPE site buildings have internally facing east and/or south facades that will be screened by other buildings further to the east and south, in addition to the provided vegetation landscaping. These same facades face onto the internal road network where clear building identification is required.</p> <p>Condition of consent B141(b) requires that all lighting associated with the development must comply with the latest version of AS 4282-1997 – Control of the obtrusive effects of outdoor lighting (Standards Australia, 1997) ... must be mounted, screened and directed to not create a nuisance to surrounding properties or the public road network, and reduces light spill and visual impact of the 24 hour facility when viewed from residential areas in the locality of the Boot Land (ie to the east and north east of the site).</p> <p>Any illuminated building signage placed on the east and south of buildings is required to comply with each of the specified requirements within Condition B141(b).</p>	<p>Architectural design drawings have been modified to remove eastern and southern facing illuminated signage from buildings on the eastern and southern perimeter (refer Table 3 and Appendix A).</p> <p>Revision of Condition B141(f)(v) to read: “no east or south facing illuminated building signage <u>on building facades with a frontage immediately adjacent the eastern or southern Site boundary</u>”</p>

Existing condition	Reason for modification	Proposed modification
	<p>Compliance with B141(b) means that all lighting (including any building signage lighting) is managed to be non-obtrusive, doesn't create a nuisance, reduces light spill and mitigates visual impact, there is an inconsistency, or at least an unnecessarily prescriptive restriction, with B141(f)(v).</p> <p>To avoid uncertainty, the architectural drawings are proposed to be modified to remove illuminated signage from the eastern and southern facades of warehouses with a frontage immediately adjacent the eastern or southern site boundary. This modification would enable internally-facing illuminated building signage on the eastern and southern facades of warehouses where the provisions of B141(b) would remain applicable.</p>	
<p>(viii) internally illuminated signs are not permitted.</p>	<p>Internally illuminated signage is not a defined term and can have a number of forms, including where the main face of the signage, lettering, numbering or logo does not transmit light outward from the Site. The condition is unnecessarily prescriptive and may have an unreasonably broad definition with consequential unintended application to forms or applications of internally illuminated signage on Site that are not obtrusive and without impact to visual amenity.</p> <p>For example, the current wording would potentially prohibit the use of typical internally illuminated exit and emergency exit signage (internally and externally) as well as external emergency meeting point signage, signals and public and private traffic controls and warning signage.</p> <p>Illuminated signage would aid night-time visibility from the internal Site road network for road users and pedestrians alike.</p> <p>Impacts of radiant light have been assessed within the EIS and RtS documentation and identify appropriate levels of mitigation to mitigate impact, including mounting height and orientation.</p> <p>The intent of the condition is intended to prevent lighting from being obtrusive, creating a nuisance, reduce light spill and to mitigate visual impact.</p> <p>This outcome is already achieved through compliance with B141(b), as indicated above and through the interception of radiant light by topography and existing natural vegetation and proposed perimeter landscaping vegetation.</p>	<p>Revision of Condition B141(f)(viii) to read:</p> <p><u>“internally illuminated signs are not permitted except where the lighting of signage satisfies the requirements outlined in Condition 141(b)”</u></p>

Reference to the AS 4282-1997 Control of the obtrusive effects of outdoor lighting (Standards Australia, 1997) (AS 4282) considers the incurrence of light spill outside property boundaries directly and by reflection. AS 4282 considers aspects of obtrusiveness including light spill, brightness of luminaires in field of view, and glare to users of transport systems. AS 4282 identifies criteria to be taken into consideration including (from AS 4282):

- (a) the level of lighting existing in the area
- (b) the times that the proposed lighting is to operate
- (c) the type of lighting technology available to light the activity
- (d) the use of readily available and easily understood technical data on the lighting installations which can easily be verified at the design and assessment stages

AS 4282 identifies two tiers of lighting limiting values to be considered, one with higher values applicable to standard operating hours and another with lower values nominated for applications outside a determined operating hour, or “curfew hour”. This application considers activity occurring during dark hours while still providing receivers with relief from being “excessively obtrusive”, based on lighting technology and employment of good practice (eg appropriate lighting levels, orientation/-directional practices and use of louvres, baffles or shields).

While AS 4282-1997 does not provide direct guidance on internally illuminated advertising signs due to the evaluation of factors such as colour, movement and cyclic operation, moving and flashing signs would remain excluded from MPE Stage 2 Site operations.

Compliance with the standard is assessed with reference to recommendations contained in Tables 2.1 and 2.2 of the standard, using calculation and design methods provided within AS 4282.

AS 4282 considers specific effects and relevant light technical parameters with respect to residents, transport system users, transport signalling systems and astronomical observations (i.e. sky glow effects caused by direct light and reflected light from installations).

The standard further considers mitigation of adverse effects through design (including a set of general principles to be applied), installation, operation and maintenance of outdoor lighting.

The requirement to comply with AS 4282 within condition B141(b) provides the requisite degree of care and attention to mitigation of any deleterious lighting effects associated with illuminated site signage. The inclusion of the controls within B141(b) obviates the need for the additional prohibitive and unreasonably broad restrictions presently placed on lighting associated with signage and included within B141(f).

It is noted that AS 4282 has been reviewed and the comment period on Draft AS/ NZS 4282-2018 closed on 8 June 2018. The draft standard identifies that the document is no longer just for guidance and includes consideration of advertising signs and lighting of facades. Pending the final version of the revised AS 4282, CoC B141(b) references compliance to the latest version, so the applicability will not change on issue of the 2018 version of the standard.

Amended architectural drawings are provided in Appendix A that identify removal of backlit illuminated integrated building signage from external-facing eastern and southern elevations. Drawings included in Appendix A proposed to be modified from those presented in the EIS and Rts are presented in Table 3 below.

Table 3 Proposed modifications to architectural drawings

Drawing reference	Warehouse	Proposed Modification
115123_A_SSD_1109 and 115123_A_SSD_1112	WH2	Remove illuminated signage on east elevation
115123_A_SSD_1204 and 115123_A_SSD_1207	WH3	Remove illuminated signage on east elevation
115123_A_SSD_1209 and 115123_A_SSD_1212	WH4	Remove illuminated signage on east elevation
115123_A_SSD_1304 and 115123_A_SSD_1307	WH6	Remove illuminated signage on east elevation
115123_A_SSD_1309 and 115123_A_SSD_1310 and 115123_A_SSD_1312	WH7	Remove illuminated signage on east elevation Remove illuminated signage on south elevation
115123_A_SSD_1315 and 115123_A_SSD_1318	WH8	Remove illuminated signage on south elevation

There is a range of signage at the site that would not be restricted by the potential obtrusive effects due to its nature or function, or location within the property boundary. For example, emergency, hazard or warning signage and internal building lighting/signage.

The proposed mounting height, orientation and light spill within the property boundary, along with the absence of reflectivity would also mean that the obtrusive effects measure would not be prohibitive to signage Types 1 - 4 identified in the adapted Table 1. Notwithstanding, the lighting and signage regime will be designed and constructed to minimise the potential for offsite impacts.

The consent conditions identified in this section require modification to:

- provide for clearly visible building identification within the precinct for the safe and efficient movement of users and visitors
- enable the development to proceed in a reasonable and feasible manner,
- give effect to the intent of design included as part of the MPE Stage 2 SSD application.
- remove inconsistency and conflict within the consent between submitted documents and the conditions and between the conditions themselves.

It is recommended that MPE Stage 2 SSD 7628 condition of consent B141(f) be modified as proposed.

4.2 Modification to Condition of Consent B13

Condition B13 details the required road upgrades associated with the development and the timeframes that outline the required completion dates for design and construction. The condition is provided in full below.

B13. The Applicant is to undertake the following upgrades, in accordance with the specified timing requirements, as set out in Table 1.

Table 1. Required Upgrades and Specified Timing Requirements

Upgrade	Specified Timing Requirements		
	Upgrade requirements	Required timing for 100% design approval by RMS	Required timing for completion of upgrade
Moorebank Avenue / M5 Motorway intersection	<ul style="list-style-type: none"> Indicative layout to be provided by Applicant, subject to design development and approval by RMS 	To be obtained prior to the issue of the first Occupation Certificate for warehousing	Prior to the issue of the first Occupation Certificate for warehousing in excess of 100,000m ² , or not later than December 2020, or a later date as agreed with the Secretary of Transport for NSW
Newbridge Road / Moorebank Avenue intersection	<ul style="list-style-type: none"> Indicative layout to be provided by Applicant, subject to design development and approval by RMS 	To be obtained prior to the issue of the first Occupation Certificate for warehousing	By December 2022

Condition B13, Table 1 continued

<p>Moorebank Avenue / Heathcote Road intersection</p>	<ul style="list-style-type: none"> • As strategically described for intersection I-5 Moorebank/Heathcote Road (page 76, MPE Stage 2 EIS Operational Traffic and Transport Impact Assessment) • Heathcote Road bus jump lane must be retained or a bus lane of equivalent length replaced by the applicant. • Indicative layout to be provided by Applicant, subject to design development and approval by RMS 	<p>To be obtained prior to the issue of the first Occupation Certificate for warehousing</p>	<p>By December 2022</p>
<p>Moorebank Avenue Upgrade, being the upgrade of Moorebank Avenue to four lanes between Anzac Avenue and the IMEX Terminal Main access point</p>	<ul style="list-style-type: none"> • Indicative layout to be provided by Applicant, subject to design development and approval by RMS, and incorporating a bicycle/pedestrian share lane. 	<p>To be obtained within 12 months of the date of this consent, or prior to the issue of the first Occupation Certificate for warehousing, whichever is the sooner</p>	<p>Prior to issue of an Occupation Certificate for warehousing in excess of 100,000m2 of gross floor area</p>

The proposed revisions to the timing requirements are shown in Table 4, below as the updated Table 1 from the consent. The proposed additions are shown in **bold underlined** and proposed deletions in ~~strike through~~.

Table 4 Proposed modification to Condition B13, Table 1

Upgrade	Specified Timing Requirements		
	Upgrade requirements	Required timing for 100% design approval by RMS	Required timing for completion of upgrade
Moorebank Avenue / M5 Motorway intersection	<ul style="list-style-type: none"> Indicative layout to be provided by Applicant, subject to design development and approval by RMS 	To be obtained prior to the issue of the first Occupation Certificate for warehousing <u>in excess of 100,000m²</u>	Prior to the issue of the first Occupation Certificate for warehousing in excess of 400,000m², or not later than December 2020, or a later date as agreed with the Secretary of Transport for NSW
Newbridge Road / Moorebank Avenue intersection	<ul style="list-style-type: none"> Indicative layout to be provided by Applicant, subject to design development and approval by RMS 	To be obtained prior to the issue of the first Occupation Certificate for warehousing <u>in excess of 100,000m²</u> .	By December 2022
Moorebank Avenue / Heathcote Road intersection	<ul style="list-style-type: none"> As strategically described for intersection I-5 Moorebank/Heathcote Road (page 76, MPE Stage 2 EIS Operational Traffic and Transport Impact Assessment) Heathcote Road bus jump lane must be retained or a bus lane of equivalent length replaced by the applicant. Indicative layout to be provided by Applicant, subject to design development and approval by RMS 	To be obtained prior to the issue of the first Occupation Certificate for warehousing <u>in excess of 100,000m²</u> .	By December 2022

<p>Moorebank Avenue Upgrade, being the upgrade of Moorebank Avenue to four lanes between Anzac Avenue and the IMEX Terminal Main access point</p>	<ul style="list-style-type: none"> Indicative layout to be provided by Applicant, subject to design development and approval by RMS, and incorporating a bicycle/pedestrian share lane. 	<p>To be obtained within 12 months of the date of this consent, or prior to the issue of the first Occupation Certificate for warehousing in excess of 100,000m². <u>in excess of 100,000m².</u> whichever is the sooner</p>	<p>Prior to issue of an Occupation Certificate for warehousing in excess of 100,000m² of gross floor area <u>Within 24 months of 100% detailed design approval by RMS, unless otherwise agreed by the Secretary of Transport for NSW.</u></p>
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As the Applicant has been unable to substantially commence construction across the site within the 12 months since the Consent was granted, the proposed revisions are required to ensure that the timing for delivery of these upgrades is aligned with the current status of works at the site and are required to prevent an unintentional breach of the conditions.

The delay to the commencement of construction is the result of the extent of post-approval documentation required and addressing approval requirements for this documentation.

The proposed modification also takes into consideration the timing and intended implementation of the Draft Voluntary Planning Agreement (VPA, under s7.4 of the EP&A Act) between RMS and Qube for MPW Stage 2 (SSD Application 16_7709). The VPA includes, in Schedule 3, the requirement for Works in Kind and dedication of the Moorebank Avenue Realignment or Moorebank Avenue South Upgrade “by 31 December 2021, or such other date agreed by RMS”.

As identified in Schedule 3 clause 3.1, “The Developer intends to undertake the Moorebank Avenue Realignment”. The application of Condition B13 in the MPE Stage 2 SSD 7628 consent should be reflective of the intent and commitment provided in the VPA and should align its wording accordingly to prevent any future inconsistency.

The proposed revisions to the timing requirements for the required upgrades will not have any environmental impacts beyond those already assessed and approved by the DP&E and, therefore, are not discussed further in this document.

4.3 Modification to Condition of Consent B104

Condition 104 outlines the timing for delivery and quantification of credit requirements for offsetting the biodiversity impacts of the development under the NSW Biodiversity Offsets Policy for Major Projects. The condition is provided in full below.

- B104. Prior to the commencement of construction, unless the Secretary agrees otherwise, the Applicant must retire biodiversity credits of a number and class specified in **Tables 6** and **7** and provide evidence to the satisfaction of the Secretary. The retirement of credits must be carried out in accordance with the NSW Biodiversity Offsets Policy for Major Projects, and can be achieved by:
- (a) acquiring or retiring credits under the BioBanking scheme established under the then *Threatened Species Conservation Act 1995*
 - (b) making payments unto an offset fund that has been established by the NSW Government; or
 - (c) providing suitable supplementary measures.

Table 6: Ecosystem Credits

Site	Plant community type	Area to be impacted	Credits required
MPE Stage 2 (excluding Moorebank Avenue site)	Hard-leaved Scribbly Gum - Parramatta Red Gum heathy woodland of the Cumberland Plain, Sydney Basin (ME003)	0.1 ha	4
MPE Stage 2 (excluding Moorebank Avenue site)	Broad-leaved Ironbark - <i>Melaleuca decora</i> shrubby open forest on clay soils of Cumberland Plain, Sydney Basin Bioregion (ME002)	0.05 ha	3
Moorebank Avenue site	Hard-leaved Scribbly Gum - Parramatta Red Gum heathy woodland of the Cumberland Plain, Sydney Basin (ME003)	3.73 ha	167
Moorebank Avenue site	Parramatta Red Gum woodland on moist alluvium of the Cumberland Plain, Sydney Basin (ME005)	0.22 ha	6
Moorebank Avenue site	Forest Red Gum - Roughbarked Apple grassy woodland on alluvial flats of the Cumberland Plain, Sydney (ME018)	0.59	17

Table 7: Species credit requirements

Species	Impacted individuals	Credits required
Nodding Geebung (<i>Persoonia nutans</i>)	12	924
<i>Hibbertia puberula</i> subsp. <i>puberula</i>	110	4400
Small-flower Grevillea (<i>Grevillea parviflora</i> subsp. <i>parviflora</i>)	79	1106

The proposed modification seeks to revise the credit requirement in Table 7 of the Consent to align with the change in biodiversity offsetting methodology implemented by the NSW Office of Environment and Heritage (OEH). The change in methodology has effected the quantification of impact and credit allocation for *Hibbertia puberula* subsp. *puberula* that was included in the original assessment, and as a result, the Consent.

The revised methodology requires the impact and credit requirements for *Hibbertia puberula* subsp. *puberula* to be provided as an area (in hectares), as opposed to a count of individuals, as stipulated by the original methodology.

Additionally, the proposed modification seeks to correct the species count of impacted individuals for Nodding Geebung (*Persoonia nutans*) from the nominated 12 to the recorded 20, which is correctly reflected in the identified credits required.

These changes are reflected in Table 5 showing the proposed modifications to Condition B104, Table 7, below. Proposed additions are shown as **bold underlined** and proposed deletions shown as ~~strikethrough~~.

Table 5 Proposed modification to B104, Table 7

Species	Impacted individuals	Credits required
Nodding Geebung (<i>Persoonia nutans</i>)	12 <u>20</u>	924
<i>Hibbertia puberula</i> subsp. <i>puberula</i>	1102 <u>49 ha</u>	4400 <u>101</u>
Small-flower Grevillea (<i>Grevillea parviflora</i> subsp. <i>parviflora</i>)	79	1106

As noted above, the primary need to modify was identified to align the offsetting requirements outlined in the consent with the regulatory process in response to the changes to the offsetting methodology implemented by OEH. The changes brought about by the revised methodology are reflected in both the updated Biodiversity Assessment Report (BAR) and the Biodiversity Offset Plan (BOP) for the development presently under review by OEH and DP&E respectively. Modification to Table 7 as proposed aligns the condition requirements to the updated BAR and BOP.

The proposed revisions to the offsetting requirements represent an equivalent commitment to that previously consented to and would not have any environmental impacts beyond those already assessed and approved and, therefore, is not discussed further in this document.

4.4 Modification to Condition of Consent (CoC) – General referencing

On review of MPE Stage 2 SSD 7628 Development Consent (January, 2018), SIMTA has identified a number of incorrect references within the CoC.

Modification of these conditions is sought, as outlined in Table 6 below (prepared by Arcadis (2018)), to facilitate consistent and accurate implementation of the consent and to avoid any misinterpretation in its application.

It is recommended that MPE Stage 2 SSD 7628 Development Consent be modified to incorporate the proposed corrections specified in Table 6.

Table 6 MPE Stage 2 SSD 7628 CoC modification to general referencing (Arcadis, 2018)

CoA	Document	Wording	Comment	Assumed correct wording
A22	Development Layout Plans and Design Plans	<i>Prior to construction, the Applicant must prepare amended Development Layout Plans and Design Plans to the satisfaction of the Secretary which achieve the improvements and revisions referred to in conditions B140 and B141, including integration of Water Sensitive Urban Design (WSUD) and landscape design.</i>	Updated Development Layout Plans are referenced in CoC B139 Urban Heat Island Mitigation Strategy and CoC B140 Urban Design and Landscape Plan. They are not referenced in CoC B141, which identify UDLP sub plans.	<i>Prior to construction, the Applicant must prepare amended Development Layout Plans and Design Plans to the satisfaction of the Secretary which achieve the improvements and revisions referred to in conditions B139 and B140 and B141, including integration of Water Sensitive Urban Design (WSUD) and landscape design.</i>
B34(e)	Soil and Water Management Plan	<i>(e) an Erosion and Sediment Control Plan (see condition B40)</i>	CoC reference should be B39, which refers to the preparation of an Erosion and Sediment Control Plan. B40 refers to the preparation of a Stormwater Management Plan.	<i>(e) an Erosion and Sediment Control Plan (see condition B40 B39)</i>
B45	Stormwater Infrastructure Operation and Maintenance Plan	<i>The Stormwater Monitoring Program must: (a) assess water quality and quantity performance for construction discharges and ongoing stormwater discharges from the development to ensure protection of the desired ecological values of Anzac Creek; and (b) include sampling locations and the frequency of sampling including wet weather sampling.</i>	B43 indicates that the Stormwater Monitoring Program is to be prepared “prior to operation and must be implemented for 5 years following completion of construction to monitor performance of the stormwater treatment system”. B45 indicates that the Stormwater Monitoring Program must “assess water quality and quantity performance for construction”. The approach, construction monitoring, in B45 is therefore inconsistent with the requirement and intent of the Stormwater Monitoring Program, i.e. operational monitoring.	<i>The Stormwater Monitoring Program must: (a) assess water quality and quantity performance for construction operation discharges and ongoing stormwater discharges from the development to ensure protection of the desired ecological values of Anzac Creek; and (b) include sampling locations and the frequency of sampling including wet weather sampling.</i>

CoA	Document	Wording	Comment	Assumed correct wording
B92	Heritage Management Plan	<p><i>Prior to commencement of Early Works and Fill Importation, the Applicant must prepare a Heritage Management Plan to the satisfaction of the Secretary. The plan must form part of the CEMP required by C3 and must:</i></p> <p><i>(a) Be prepared by a suitably qualified and experienced person(s)</i></p> <p><i>(b) Be prepared in consultation with NSW Heritage Division, Council, relevant landowners and stakeholders including the Moorebank Heritage Group (MHG) and Department of Defence</i></p>	CoC reference should be C1, which refers to the preparation of a Construction Environmental Management Plan (CEMP). C3 refers to the preparation of an Operational Environmental Management Plan (OEMP).	<p><i>Prior to commencement of Early Works and Fill Importation, the Applicant must prepare a Heritage Management Plan to the satisfaction of the Secretary. The plan must form part of the CEMP required by C3 C1 and must:</i></p> <p><i>(a) Be prepared by a suitably qualified and experienced person(s)</i></p> <p><i>(b) Be prepared in consultation with NSW Heritage Division, Council, relevant landowners and stakeholders including the Moorebank Heritage Group (MHG) and Department of Defence</i></p>
B99	Discovery of Human remains or Aboriginal objects or places	<p><i>If any Aboriginal object or Aboriginal place is identified on site, or suspected on site:</i></p> <p><i>(b) all work in the immediate vicinity of the object or place must cease immediately</i></p> <p><i>(j) a 10m buffer area around the object or place must be cordoned off; and</i></p> <p><i>(k) OEH must be contacted immediately.</i></p>	Number seems to be incorrect, i.e. (b), (j), (k).	<p><i>If any Aboriginal object or Aboriginal place is identified on site, or suspected on site:</i></p> <p><i>(b) (a) all work in the immediate vicinity of the object or place must cease immediately</i></p> <p><i>(j) (b) a 10m buffer area around the object or place must be cordoned off; and</i></p> <p><i>(k) (c) OEH must be contacted immediately.</i></p>
B139(d)(iii)	Urban Heat Island Mitigation Strategy	<i>UDLP required by condition B141</i>	CoC reference should be B140, which refers to the UDLP.	<i>UDLP required by condition B141B140.</i>
B140(l)	Urban Design Landscape Plan (UDLP)	<i>Details of how the principles of Ecologically Sustainable Development listed at condition B143, in particular rainwater capture and reuse and</i>	CoC reference should be B142, which refers to Ecologically Sustainable Development (ESD).	<i>Details of how the principles of Ecologically Sustainable Development listed at condition B143 B142, in particular rainwater capture and reuse and energy</i>

CoA	Document	Wording	Comment	Assumed correct wording
		<i>energy efficiency have been incorporated into the UDLP and final Stormwater Management Plan plans required by Condition B40.</i>	B143 refers to Bushfire Management.	<i>efficiency have been incorporated into the UDLP and final Stormwater Management Plan plans required by Condition B40</i>
B140(o)	UDLP	<i>details of where and how recommendations from the Flora and Fauna Management Plan for adjoining offset area (condition B108) have been incorporated into the UDLP.</i>	Reference is made to B108 which refers to the Construction Flora and Fauna Management Plan (CFFMP), i.e. a construction document. The UDLP is an operational document so reference to B110 the Operational Flora and Fauna Management Plan (OFFMP) seems more appropriate than reference to the CFFMP.	<i>details of where and how recommendations from the Flora and Fauna Management Plan for adjoining offset area (condition B108 B110) have been incorporated into the UDLP.</i>
C9(c)	Revision of plans	<i>the submission of an audit under condition C18</i>	An Independent Environmental Audit is required by CoC C18. Within three months of commencing the audit, an audit report must be submitted to the Secretary. This report may identify any recommendations, including the review and update of any strategy, plans and/or programs required by this consent. C9(c) should make reference to the audit report (the output of the audit) rather than the audit (which is not in itself a deliverable). Therefore, reference should be made to C19, rather than C18.	<i>the submission of an audit report under condition C18 C19</i>
C23	Environmental Representative (ER)	<i>Construction must not commence until an ER nominated under C24 has been approved by the Secretary.</i>	The ER is nominated under CoC C22. Therefore, C24 seems to be an incorrect reference.	<i>Construction must not commence until an ER nominated under C24 C22 has been approved by the Secretary.</i>

5.0 Substantially the Same Development

Section 4.55 (1A) of the EP&A Act states that a consent authority may approve an application for the modification of development consent if,

“it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all).”

While the legislation does not include a strict definition on what constitutes ‘substantially the same development’, the phrase was interpreted by the court in the case of *Moto Projects (No 2) Pty Ltd v North Sydney Council (1999) NSWLEC 280*.

Within this case important principles for consideration in the approval of a modification were established. These included:

- The verb ‘modify’ means to alter without radical transformation
- ‘Substantially’ in this context means essentially materially or having the same essence
- A development as modified would not necessarily be ‘substantially the same development’ simply because it is for precisely the same use as that for which consent was originally granted
- A modification application involves undertaking both a qualitative and quantitative comparison of the development as originally approved and modified
- Although the comparative task required under section 96 (now Section 4.55) involves a comparison of the whole of the development being compared, the fact does not eclipse or cause it to be eclipsed if a particular feature of the development particularly if that feature is found to be important, material or essential to the development
- Environmental impacts of the proposed modification are relevant in determining whether or not a development is substantially the same.

The proposed modifications do not change the purpose for which the development is being carried out and maintains all of the key components of the development, as described in Schedule 1 of the consent.

The proposed modifications do not involve any work on new land and the scale, nature, extent and form of the building envelope would remain the same. In addition, the proposed modification would not result in any environmental impacts beyond those previously assessed as part of the EIS and RtS processes and approved as part of the consent. The MPE Stage 2 SSD 7628 Development Consent, as proposed to be modified, remains consistent with the applicable legislation, policies and controls, including the residual conditions of consent.

Accordingly, the consent authority may be satisfied that the proposed modification is ‘substantially the same’ as the approved development.

6.0 Planning Assessment

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent

“if it is satisfied that the proposed modification is of minimal environmental impact”.

Under Section 4.55(3), the consent authority must also take into consideration the relevant matters to the application referred to in Section 4.15(1) of the EP&A Act. The environmental assessment of the proposed modification remains substantially unchanged to the relevant matters under Section 4.15(1).

The MPE Stage 2 SSD 7628 Environmental Impact Statement (EIS) (Arcadis, 2016) demonstrated the compliance of the development with all relevant legislation and strategic plans and guidelines. In addition, the EIS, in conjunction with the MPE Stage 2 Response to Submissions (RtS) Report (Arcadis, 2017) and additional information submitted as part of the approvals process, addressed the full spectrum of environmental impacts of the project. Given the nature and extent of the proposed modifications there will not be any additional environmental impacts beyond those previously assessed.

The proposed modification seeks to remove the prescriptive height and illumination restrictions on building signage and signage generally to enable reasonable development of the warehousing and built form component of the development.

The building signage design originally proposed and assessed as part of the SSD application included signage at a number of locations on each warehouse of varied heights and orientation in response to the forecast needs of warehousing tenants and the precinct operator, and was based on the Applicant’s knowledge of the general market requirements for such building components for industrial warehousing. The general building signage design was provided as part of the architectural drawings included in the EIS (Section 4.2 and Appendix D) and RtS Report (Appendix B1), and is included as Appendix A of this document.

Given the general signage design, with regard to both the scale and illumination of the proposed business and building identification signage, and being cognisant of the restrictions on lighting already included within CoC B141(b)(i) regarding compliance with AS 4282, it is both reasonable and feasible to provide clearly visible integrated building signage above the height of low level site landscaping elements and to remove the unnecessary limitation on signage illumination. Effecting this proposed modification would not have a detrimental impact on the physical or social environment.

The present <3 m height restriction is incompatible with the need for building and business identification signs to be clearly visible to precinct users and visitors. Not only will the restriction limit the easy and safe identification of warehouse buildings, height limited signage is likely to be obscured by the extensive landscaping and screening vegetation that is proposed for the site. As noted above, such landscaping and screening vegetation will serve to soften the contrast of signage design.

As previously noted, the proposed modification to conditions B141(f)(v) and (viii) would require any lighting associated with these two conditions to comply with the technical specifications contained in tables 2.1 and 2.2 of AS4282, as required by the Lighting Sub-plan (CoC B141(b)).

Other components of Condition B141(f) prohibit the installation of general advertising and moving or flashing signs, and the scale and location of such signage is controlled by the State Environmental Planning Policy (SEPP) No 64 - Advertising and Signage. However, the application of restriction of scale and illumination to general business and building identification signage, which does not fall under the definition of advertising, is specifically excluded from any controls and restrictions outlined in the SEPP.

General site signage illumination, including integrated building signage, can be effectively managed and mitigated by locating illuminated building signage on internally facing walls and implementing site lighting in accordance with the compliance requirements under B141(b) with specific reference to AS 4282.

Proposed modification to Conditions B13 and B104 are required to provide consistency with other planning/regulatory requirements and do not change the scale, nature and extent of likely impacts of the project, as assessed, nor would they alter the value and benefit of intended mitigation and control measures.

Proposed modifications to conditions generally is required to provide certainty and consistency in the application of the conditions.

7.0 Conclusion

This modification seeks to

- remove the prescriptive height and illumination restrictions on building and site signage and to enable the Applicant to implement revised architectural drawings to avoid potential impacts and to retain a safe and effective operating environment for the development as submitted.
- amend prescribed timing for approval of road designs and their respective timing for implementation to be reflective of the actual progress of construction since provision of the consent. Additionally, the proposed modification enables alignment with the intent and commitments of provisions within the Draft VPA prepared between RMS and Qube under the MPW Stage 2 SSD Application 16_7709 with respect to Works in Kind contributions.
- provide consistency with current OEH quantification methods with respect to biodiversity credit retirement requirements
- provide correct referencing included across various conditions to avoid misinterpretation or erroneous application.

In accordance with section 4.55(1A) of the EP&A Act, the proposed modification is considered appropriate to approve as:

- The consent as proposed to be modified is substantially the same development as the development for which consent was granted;
- The proposed modification will not result in any environmental impacts beyond those previously assessed; and
- The proposed modification remains generally consistent with the approved development.

Additionally, the modification removes inconsistency and conflict within the MPE Stage 2 SSD 7628 Development Consent conditions in their current form.

Appendix A Referenced Signage Drawings

From MPE Stage 2 EIS Appendix D Architectural Drawings (Arcadis, 2016) and RtS Appendix B1 Revised Architectural Drawings (Arcadis, 2017)

Drawing References Amended from Appendix D of the EIS (Arcadis, 2016) and Appendix B1 of the RtS (Arcadis, 2017), presented as Table 3 Proposed modifications to architectural drawings in this application document:

Drawing reference	Warehouse	Proposed Modification
115123_A_SSD_1109 and 115123_A_SSD_1112	WH2	Remove illuminated signage on east elevation
115123_A_SSD_1204 and 115123_A_SSD_1207	WH3	Remove illuminated signage on east elevation
115123_A_SSD_1209 and 115123_A_SSD_1212	WH4	Remove illuminated signage on east elevation
115123_A_SSD_1304 and 115123_A_SSD_1307	WH6	Remove illuminated signage on east elevation
115123_A_SSD_1309 and 115123_A_SSD_1310 and 115123_A_SSD_1312	WH7	Remove illuminated signage on east elevation Remove illuminated signage on south elevation
115123_A_SSD_1315 and 115123_A_SSD_1318	WH8	Remove illuminated signage on south elevation

