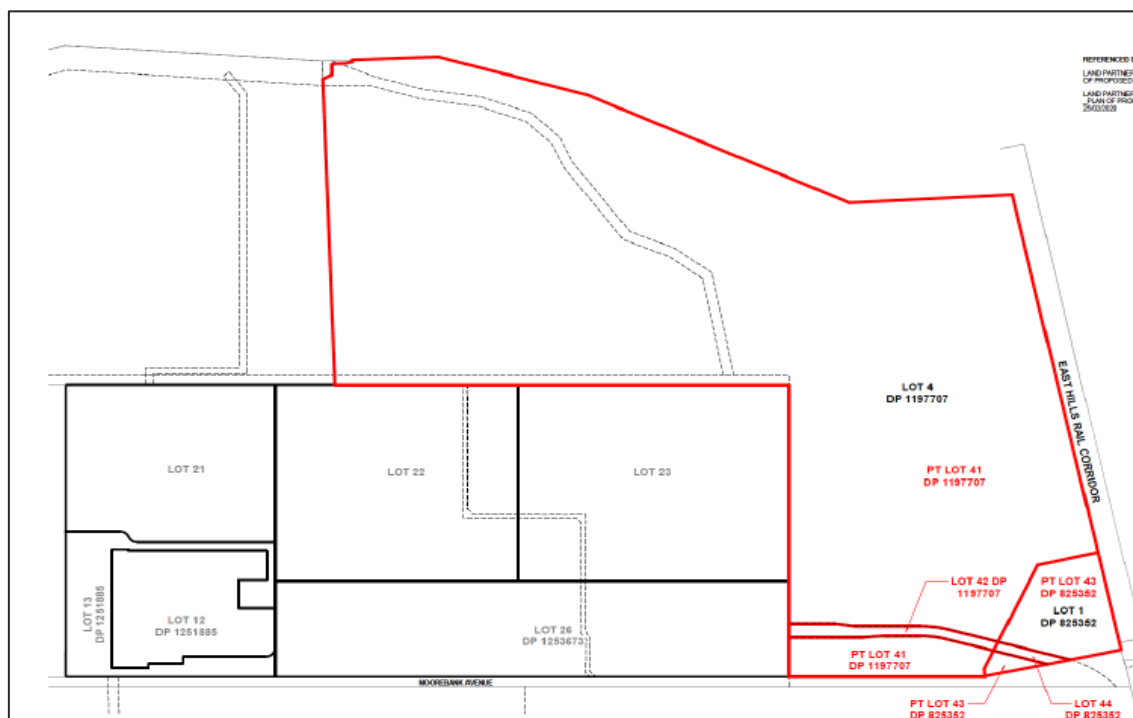


Moorebank Intermodal Precinct East – Stage 2 Modification 3

Subdivision of two additional lots, changed frequency for compliance reporting, changed signage requirements and administrative updates to conditions.

State Significant Development Modification Assessment
(SSD 7628 MOD 3)

December 2020



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Title: **Moorebank Intermodal Precinct East – Stage 2 Modification 3**

Subtitle: Subdivision of two additional lots and changed frequency of compliance reporting

Cover image: Additional proposed lots (shown in red) (Source: Applicant's Modification Report).

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Glossary

Abbreviation	Definition
AHD	Australian Height Datum
Applicant	SIMTA, as Qube Holdings Limited
BCA	Building Code of Australia
CIV	Capital Investment Value
CoC	Condition of Consent
Concept Plan	Moorebank Precinct East Concept Plan (MP 10_0193)
Consent	Development Consent
Council	Liverpool City Council
Department	Department of Planning, Industry and Environment
EIS	Environmental Impact Statement
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
GFA	Gross Floor Area
LLEP	Liverpool Local Environmental Plan
Minister	Minister for Planning and Public Spaces
MOD	Modification
MPE	Moorebank Precinct East
MPE Stage 2 development consent	Development consent SSD 7628, approved by the Commission on 31 January 2018
MPE Stage 2 subdivision development consent	Development consent SSD 7628 for subdivision, approved by the Commission on 5 April 2019
MPW	Moorebank Precinct West
OSD	Onsite detention
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
SEARs	Planning Secretary's Environmental Assessment Requirements
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development
TEU	Twenty-foot equivalent unit (freight container)
The Commission	Independent Planning Commission

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1 Introduction

This report provides the NSW Department of Planning, Industry and Environment's (the Department) assessment of the application to modify the State significant development (SSD) subdivision development consent and original development consent for Moorebank Intermodal Precinct East (MPE) – Stage 2 (MPE Stage 2) (SSD 7628).

The modification application seeks approval to amend the MPE Stage 2 subdivision development consent to include the subdivision of two additional lots (creating four lots) in the subdivision plan at **Appendix 1**.

The modification application also seeks approval to amend the MPE Stage 2 original development consent:

- change frequency for compliance reporting required under condition C21(c)(ii) from quarterly to six-monthly.
- revision of controls relating to building signage as part of the Signage Sub Plan, as set out in condition B141(f) of the consent.
- update multiple conditions to correct referencing, to avoid misinterpretation and facilitate effective compliance.

The application was lodged on 26 June 2020 by Aspect Environmental Pty Limited on behalf of Sydney Intermodal Terminal Alliance (SIMTA), as Qube Holdings Limited (the Applicant), under section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.1 Background

The MPE site, including the MPE Stage 2 site, is located approximately 27 kilometres (km) south-west of the Sydney central business district (CBD) and approximately 26 km west of Port Botany, in the Liverpool local government area (LGA) (**Figure 1**).

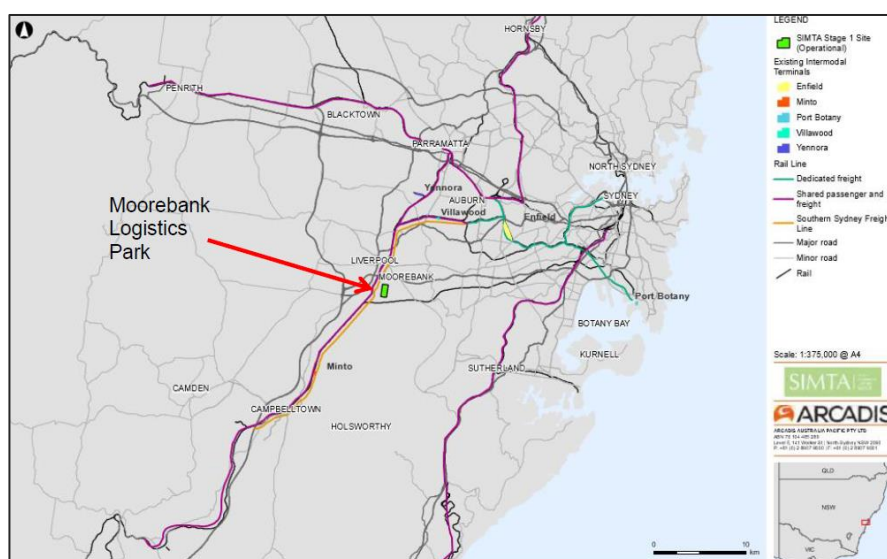


Figure 1 | Moorebank Logistics Park location (Source: Applicant's Modification Report)

The site is located approximately 2.5 km from the Liverpool city centre and approximately 800 m south of the intersection of Moorebank Avenue and the M5 Motorway. The location of the site is shown in **Figure 2**.

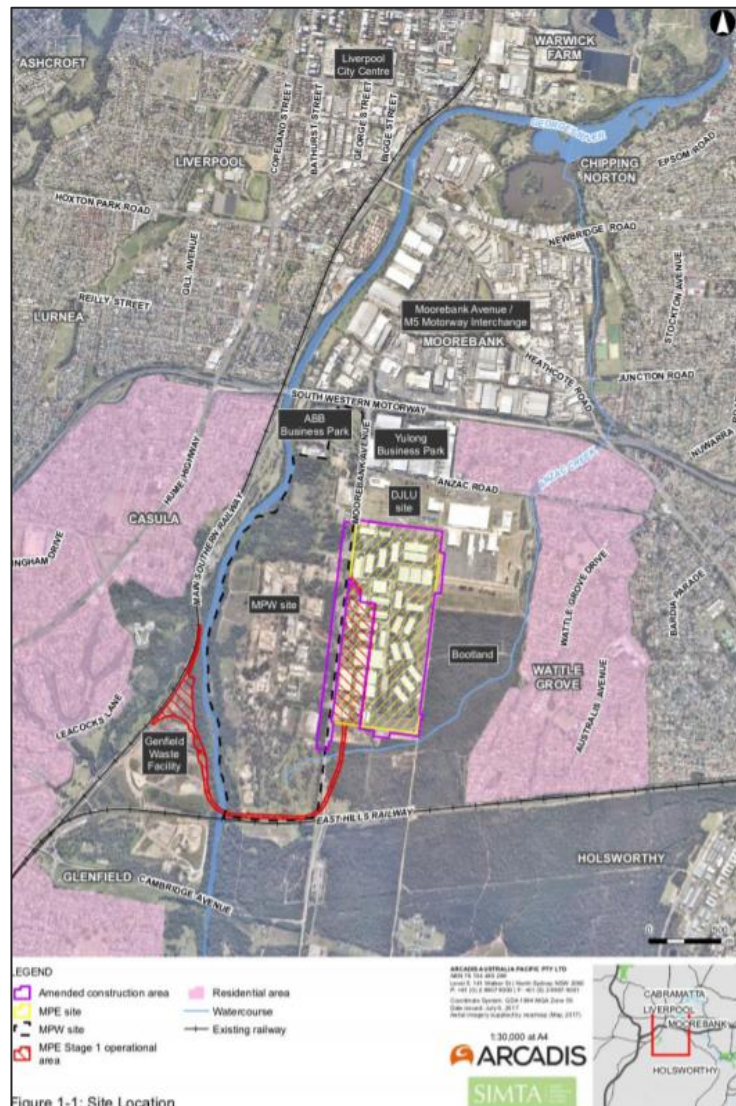


Figure 2 | MPE site local context (Source: Applicant's Modification Report)

The MPE site most recently operated as the Defence National Storage and Distribution Centre (DNSDC). The Department of Defence vacated the site prior to approval of MPE Stage 2, and relocated their operation to the Defence Joint Logistics Unit (DJLU), immediately north of the MPE site. To the north, beyond the DJLU, is the Yulong Business Park, 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 majority of the land surrounding the MPE site is owned and operated by the Commonwealth and comprises:

- the Moorebank Precinct West (MPW) site, formerly the School of Military Engineering (SME), on the western side of Moorebank Avenue directly adjacent to the MPE site
- the Holsworthy Military Reserve, to the south of the MPE site on the southern side of the East Hills Rail Corridor

- Residual Commonwealth Land (known as the 'Boot Land'), to the east of the MPE site between the site boundary and the Wattle Grove residential area.

The area immediately south of the MPE site, known as the 'Southern Boot Land', includes an existing rail spur within heavily vegetated remnant bushland. Other flora in the vicinity of the Proposal, but outside the MPE Stage 2 site, includes riparian vegetation along the banks of the Georges River before giving way to highly disturbed land used as part of the Glenfield Quarry and Glenfield Waste Facility operation.

1.2 Approval history

MPE Concept Plan (MP 10_0193)

On 29 September 2014, the then Planning Assessment Commission (the Commission), as delegate of the Minister for Planning, approved a Concept Plan (MP 10_1093) for the use of the site as an intermodal facility, including:

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

On 12 December 2014, the Commission approved the first modification to the Concept Plan approval (MP 10_0193 MOD 1) for revisions to the land description, voluntary planning agreement and statement of commitments.

On 31 January 2018, the Commission approved a second modification to the Concept Plan approval (MP 10_0193 MOD 2). The modification approval included provision for the concept of subdivision, subject to a future staged development consent.

On 31 January 2020, a third modification (MP 10_0193 MOD 3) to the Concept Plan approval was approved, to extend the construction and operational footprint at the southern extent of the MPE site, to facilitate onsite detention (OSD) basin number 2 (OSD 2).

MPE Stage 1 (SSD 6766)

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

- an intermodal terminal facility operating 24 hours per day, 7 days a week handling a container freight throughput of up to 250,000 twenty-foot equivalent units (containers) per annum, including:
 - truck processing and loading areas
 - rail loading and container storage areas
 - an administration facility and associated carparking.
- 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, drainage and utilities installation.

MPE Stage 2 (SSD 7628)

On 31 January 2018, development consent was granted by the Commission for Stage 2 (SSD 7628) of the MPE component of the Moorebank Intermodal Terminal. Subdivision of the MPE Stage 2 site was excluded from the Commission's original determination.

Determination of the subdivision component was approved by the Commission on 5 April 2019, as a partial development consent to SSD 7628 (MPE Stage 2 subdivision development consent).

Key components of the MPE Stage 2 Project include:

- earthworks, including the importation of 600,000m³ of fill, and vegetation clearing
- warehousing and additional ancillary offices, comprising approximately 300,000m² gross floor area (GFA)
- freight village, comprising 8,000m² 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
- upgrade to Moorebank Avenue, including upgrading existing intersections along Moorebank Avenue
- operations being undertaken 24 hours per day and seven days per week.
- subdivision of the MPE site into five lots.

The Applicant has commenced construction on the MPE Stage 2 Project.

The MPE Stage 2 original development consent has previously been modified once and two modifications are currently under assessment (see **Table 1**).

The MPE Stage 2 subdivision development consent has not been previously modified.

Table 1 | Summary of modifications to the MPE Stage 2 subdivision development consent (SSD 7628)

Mod No.	Summary of Modifications	Approval Authority	Type	Approval Date
MOD 1	Revisions to timing for intersection design approvals and upgrades	Department	4.55(1A)	Under assessment
MOD 2	Extension of the construction and operational boundary footprint at the southern extent of the MPE site, removal of the requirement for maximum batter slopes of 1V:4H for OSD 9 and revision of the biodiversity offset methodology	Department	4.55(1A)	31 January 2020

2 Proposed modification

On 26 June 2020, the Applicant lodged a modification application seeking to amend the MPE Stage 2 subdivision development consent and MPE Stage 2 original development consent.

The modification application seeks approval to amend the MPE Stage 2 subdivision development consent to include the subdivision of two additional lots (creating four lots) in the subdivision plan at **Appendix 1**.

The modification also seeks approval for the following amendments to the MPE Stage 2 original development consent:

- changed frequency for compliance reporting required under condition C21(c)(ii) from quarterly to six-monthly.
- revision of controls relating to building signage as part of the Signage Sub Plan, as set out in condition B141(f) of the consent.
- updates to multiple conditions to correct referencing in order to avoid misinterpretation and facilitate effective compliance.

2.1 Subdivision of additional lots

The proposal seeks to subdivide two additional lots (creating four new lots) in the subdivision plan at Appendix 1 of the MPE Stage 2 subdivision development consent. The Applicant proposes the following changes:

- subdivide lot 4 DP 1197707 (the 'Boot land') into new two lots (creating lot 41 DP 1197707 and lot 42 DP 1197707)
- subdivide lot 1 DP 825352 (the 'RailCorp wedge') into two new lots (creating lot 43 DP 825352 and lot 44 DP 825352).

The Applicant contends that subdivision of these lots is essential to:

- maintain connectivity, and interdependencies, between intermodal functions,
- ensure accessibility and functionality of rail access for warehouse operations, and
- provide clear management responsibility for the respective lots.

Responsibility for overall precinct environmental management sits with Qube Holdings, in its function as Precinct Development Company (PDC), established as part of an arrangement with the Commonwealth Government. This arrangement includes requirements to subdivide the MPE site.

The Applicant submits that proposed lot 42 DP 1197707 (0.90 ha) and proposed lot 41 DP 1197707 (99.09 ha) do not comply with the minimum subdivision lot size requirement of 120 ha for the 'Boot land' area under Liverpool Local Environment Plan (2008) (LLEP). Consequently, the Applicant seeks to vary the minimum subdivision lot size development standard and seek permission for these smaller lots. See **Table 3** below.

The Applicant prepared justification for the departure from the development standard in the form of a clause 4.6 variation request (**Appendix A**). While a clause 4.6 variation request is not required for modifications to development consents, the form of the request provides relevant information for the Department to consider whether the smaller lot sizes are acceptable on planning grounds. Further, the Department notes that proposed lot 42 DP 1197707 is currently approved as easement 'G' on the MPE subdivision plan. The Department's detailed consideration of the proposed subdivision is provided at **Section 6.1**. **Figure 3** provides an overview of the additional proposed lots (shown in red).

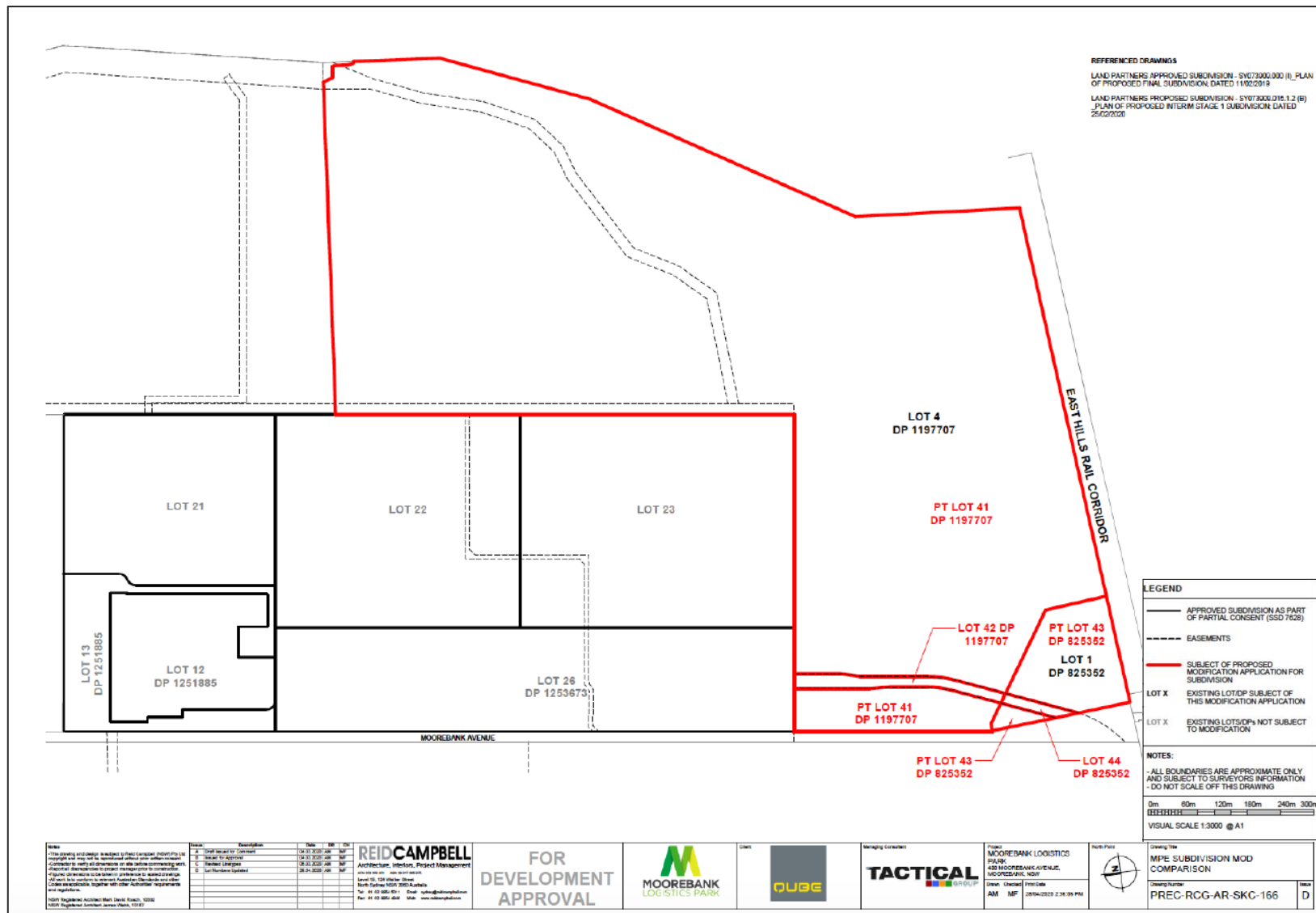


Figure 3 | Proposed modification – Additional proposed lots (shown in red) (Source: Applicant's Modification Report).

2.2 Changed frequency for compliance reporting

The proposal seeks to change the frequency for construction compliance reporting under condition C21(c)(ii) of the MPE Stage 2 original development consent from quarterly to six-monthly. The Applicant asserts that the change is required to align the frequency of construction compliance reporting for MPE Stage 2 with other Moorebank Intermodal Precinct development consents, including MPE Stage 1 (SSD 6766), MPW Stage 1 and Concept (SSD 5066) and MPW Stage 2 (SSD 7709). The Department's detailed assessment of the proposed compliance reporting change is provided at **Section 6.2**.

2.3 Modification to condition B141(f)

The proposal seeks to amend condition B141(f) of the MPE Stage 2 original development consent to include the following changes:

- delete condition B141(f)(ii), which requires individual building signage integration be no higher than 3 m above the finished ground level
- revise condition B141(f)(v) to allow internally-facing illuminated signage on the eastern and southern facades of warehouses. No east or south facing illuminated building signage would be permitted on building facades with a frontage immediately adjacent to the eastern or south site boundary
- revise condition B141(f)(viii) to allow internally illuminated signs where the lighting of signage satisfies the requirements of condition B141(b).

The existing condition 141(f) requires that the Urban Design and Landscape Plan (UDLP) include a Signage Sub Plan. As part of the detailed design process for the Project, it was identified that there may be a need for wayfinding and identification signage integrated into building forms over three metres in height due to the height of heavy vehicles moving through the site. It was also identified that illuminated signage would be of benefit in wayfinding around the facility. The Applicant noted that improving the visibility of signage would serve to reduce the number and duration of vehicle movements across the site and consequent impacts to receivers. The various signage types proposed by the Applicant are shown in **Table 2**.

Table 2 | Types of signage proposed within the MPE Stage 2 site (Source: Applicant's Modification Report)

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 6 for typical building elevations and integrated building signage placement	Affixed to each warehouse	Y

The Applicant provided examples of types of signage proposed across the project, which are reproduced in **Section 6.3**. The Department's detailed assessment of proposed changes to signage requirements is also provided in **Section 6.3**.

The Department notes that proposed modifications to condition B141(f) were previously proposed as part of SSD 7628 MOD 1. This component has now been integrated as part of this modification application.

2.4 Modification to multiple conditions – general referencing

The Applicant has identified a number of potential referencing inconsistencies throughout the MPE Stage 2 original development consent. The referencing issues identified throughout the consent are outlined in detail at **Section 6.4**, with proposed deletions shown with strikethrough and text proposed for insertion in bold.

The Department notes that proposed administrative changes were previously proposed as part of SSD 7628 MOD 1. This component has now been integrated as part of this modification application.

3 Strategic context

The Moorebank Intermodal Precinct 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' to alleviate existing congestion on the road network around the site.

Future Transport 2056 (TfNSW, 2018) emphasises the need for safe, efficient and sustainable movement of freight, and sets a series of future directions for investigation including expanding intermodal rail capacity in Western Sydney. The *NSW Freight and Ports Plan* (2018) concludes that intermodal terminals within Greater Sydney are 'critical for increasing the utilisation of the rail freight network, particularly containers to and from Port Botany'.

The Greater Sydney Commission's (GSC) *The Greater Sydney Region Plan – A Metropolis of Three Cities*, notes that freight volumes are forecast to 'almost double in the next 40 years' and 'increasing importance [is being] placed on 24/7 supply chain operations to maintain Greater Sydney's global competitiveness.' The Region Plan notes that 'substantial future industrial land supply', including the Moorebank Intermodal Precinct, 'will support large-scale logistics growth'.

The GSC's *Western City District Plan* states:

- *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.*

4 Statutory context

4.1 Scope of modification

The Department has reviewed the scope of the modification application and considers the application involves minimal environmental impact as the proposal:

- would not significantly increase the environmental impacts of the project as approved.
- is substantially the same development as originally approved.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act, does not constitute a new development application, and the application can be assessed and determined under section 4.55(1A) of the EP&A Act.

The Department notes that the administrative changes to referencing proposed could be assessed independently under section 4.55(1) of the EP&A Act. However, as the administrative changes have been requested alongside other modifications involving minimal environmental impact, the Department has determined that the modification request as a whole should be assessed and determined under section 4.55(1A) of the EP&A Act.

4.2 Consent authority

The Minister for Planning and Public Spaces is the consent authority for the application under section 4.5(a) of the EP&A Act. However, under the Minister's delegation dated 9 March 2020, the Acting Executive Director, Infrastructure Assessments, may determine the application as:

- the relevant council has not made an objection.
- a political disclosure statement has not been made.
- there are 10 or less public submissions in the nature of objection.

4.3 Mandatory matters for consideration

The following environmental planning instruments (EPIs) apply to the site:

- State Environmental Planning Policy (State & Regional Development) 2011
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No. 33 – Hazardous and offensive development
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 64 – Advertising Structures and Signage
- Draft State Environmental Planning Policy (Remediation of Land)
- Draft State Environmental Planning Policy (Environment)
- Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment
- Liverpool Local Environment Plan (LLEP) 2008.

The Department conducted a comprehensive assessment of the project against the mandatory matters for consideration as part of the original assessment of SSD 7628. The Department considers this modification application does not result in significant changes that would alter the mandatory matters for consideration under section 4.15(1) of the EP&A Act and/or conclusions made as part of the original assessment.

5 Engagement

5.1 Department's engagement

Clause 117(3B) of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) specifies that the notification requirements of the EP&A Regulation do not apply to section 4.55(1A) modifications with minimal environmental impact. However, the Department considered it appropriate to exhibit the application on the Department's website for 14 days from 8 July 2020 to 21 July 2020.

The application was referred for comment to Liverpool City Council and government agencies:

- Environment Protection Authority (EPA)
- Transport for NSW (TfNSW)
- Environment, Energy and Science Group (EESG) of the Department
- Endeavour Energy.

Modifications to condition B141(f) and administrative changes (SSD 7628 MOD 1)

The proposed changes to conditions B141(f) and administrative changes were exhibited as part of a separate modification application (SSD 7628 MOD 1). As SSD 7628 MOD 1 has not been determined, it is appropriate that this report also acknowledges issues relevant to the proposed changes to condition B141(f) and administrative changes.

The Department exhibited the SSD 7628 MOD 1 application for 14 days from 24 January 2019 to 8 February 2019 and referred the application to Council, EPA, EESG and TfNSW for comment.

5.2 Summary of submissions (SSD 7628 MOD 3)

The Department received a total of five submissions on the SSD 7628 MOD 3 proposal, including one submission from Liverpool City Council and four from government agencies. No public submissions were received. A summary of submissions received is provided below and a full copy of submissions is provided in **Appendix A**.

TfNSW did not object to the proposed modification, and provided the following comments:

- raised concern that subdivision of Lot 1 DP 825352 and Lot 4 DP 1197707 may complicate delivery of agreed developer contributions set out in the Voluntary Planning Agreement (SVPA-2018-9696) between TfNSW and Applicant.
- sought further information explaining how potential impacts of the proposed modification on the Moorebank Avenue Realignment (SSI-10053) have been assessed.
- noted that TfNSW has begun planning for a future upgrade and extension of Cambridge Avenue, as part of the Moorebank Intermodal Road Access Strategy. This would connect Moorebank Avenue within the subdivided land (Lot 1 DP 825352 and Lot 4 DP 1197707).
- sought further information of potential impacts of the modification on the conjunction of proposed Moorebank Avenue Realignment or Moorebank Avenue Upgrade and Cambridge Avenue.

Council, EPA and EESG did not object to the proposed modification and provided no further comment. Endeavour Energy did not object to the proposed modification and provided technical guidelines, supporting material and advised that the site is in the proximity of Endeavour Energy's Anzac Village zone substation located at Anzac Road, Wattle Grove.

5.3 Summary of submissions (SSD 7628 MOD 1)

During the exhibition period for SSD 7628 MOD 1, the Department received a total of ten submissions on the proposal, including one submission from Liverpool City Council, three from government agencies, one from a special interest group and five from the public. The five submissions from the public were all registered as objections, as was the submission from the East Liverpool Progress Association. Government agency submissions were received from TfNSW, EESG and the EPA.

A summary of comments provided in government agency submissions for SSD 7628 MOD 1, as relevant to condition B141(f) and administrative changes, are reproduced below in **Table 3**.

Table 3 | Summary of Council and government agency submissions (SSD 7628 MOD 1)

Council

Council did not object to the proposed modification but noted that overall development for Moorebank Intermodal is not supported by Council.

The following comments were provided by Council (about condition B141(f) and administrative changes only):

- accepts that the 3 metre height limit for signage could be modified
- a visual impact assessment of the vertical signage is requested
- satisfied with the modification to the conditions relating to illuminated signage as all illuminated signage appears to be appropriately oriented or screened
- satisfied with the modification to allow illuminated signage provided a visual impact assessment is undertaken
- supports the administrative wording amendments to conditions B34(e), B92, B99, B139(d)(iii), B140(l), C9(c) and C23
- does not support the administrative wording changes to conditions A22, B44 and B140(o).

EPA

EPA did not object to the proposed modification and provided the following comments (about condition B141(f) and administrative changes only):

- it is possible that discharges of treated stormwater constitute water pollution under s120 of the POEO Act
- EPA recommends that the modified consent should clearly articulate that no condition of the consent permits the pollution of water under s120 POEO Act.

5.4 Key issues – Community Issues and Special Interest Groups (SSD 7628 MOD 1)

A total of five community submissions were received in relation to SSD 7628 MOD 1, all objecting to the proposed modification. All submissions received were from within the Liverpool LGA: three from Wattle Grove, once from Casula and one from Chipping Norton. All submissions received objected to the development generally, however it is noted that general matters relating to site selection and appropriateness of the development raised in submissions as part of the reasons for objection are beyond the scope of the proposed modification.

The relevant issues raised in community submissions to this modification include:

- Lack of detail in the modification report
- Availability of background studies
- Visual impact of signage.

A submission was received from the East Liverpool Progress Association in relation to SSD 7628 MOD 1. The group noted that they remain generally opposed to the development and in particular the site selection, however this is beyond the scope of the modification request. The group specifically objected to the modification of condition B141(f) on the basis that the Signage Sub-plan is specific to the use of warehouses as defined under condition A12, and that any modification to the Signage Sub-plan would render the project to not be substantially the same development.

These issues are discussed in **Section 6** of this report.

5.5 Response to submissions

SSD 7628 MOD 3

Following exhibition of the modification application for SSD 7628 MOD 3, the Department placed copies of all submissions on its website and requested the Applicant provide a response to the issues raised in submissions.

On 21 August 2020, the Applicant submitted a Response to Submissions (RtS) (**Appendix A**) to address the issues raised during the exhibition of SSD 7628 MOD 3. The Department made the RtS publicly available on the Department's website.

The RtS report was forwarded to TfNSW, requesting advice on whether the RtS addressed their concerns. TfNSW recommended that the Applicant ensure any design for the future Moorebank Avenue Realignment enable dedication (as public road) of all required land for the realignment, consistent with the Voluntary Planning Agreement, including any encroachment on proposed Lot 44 DP 825352. No further comments were raised by Council or government agencies.

SSD 7628 MOD 1

Following exhibition of the modification application for SSD 7628 MOD 1, the Department placed copies of all submissions on its website and requested the Applicant provide a response to the issues raised in the submissions.

On 17 April 2019, the Applicant submitted a RtS addressing community and government agency comments for SSD 7628 MOD 1, including matters relating to changes to condition B141(f) and administrative changes under SSD 7628 MOD 1. The RtS was made publicly available on the Department's website.

The RtS for SSD 7628 MOD 1 was forwarded to EPA, TfNSW, EESG and Council requesting advice on whether the RtS addressed their concerns. Their responses, as relevant to condition B141(f) and administrative changes, are summarised below:

- EPA provided a response on 5 July 2019, noting the RtS addressed their outstanding concerns and recommended the condition requiring the stormwater monitoring program make explicit the requirement to prevent water pollution.

- Council provided a response on 5 June 2019. Following the expanded explanation in the RtS, Council noted they had no outstanding concerns in relation to the proposed administrative wording changes to conditions.

Request for Information

On 7 September 2020, the Department sent a request for information (RFI) to the Applicant. The RFI sought to confirm that the following components of SSD 7628 MOD 1 are requested to be integrated as part of the application for SSD 7628 MOD 3:

- modification to signage requirements under condition B141(f) of consent
- administrative modification to multiple conditions – general referencing.

On 23 September 2020, the Applicant provided correspondence to the Department confirming that the above components for SSD 7628 MOD 1 are to be integrated as part of SSD 7628 MOD 3 (i.e. this application). The Applicant advised that traffic related matters subject to SSD 7628 MOD 1 would remain as part of that application, which is yet to be determined by the Department. The Department considers this approach to be acceptable.

6 Assessment

The Department has considered the modification application, the matters raised in submissions and the Applicant's RtS in its assessment of the modification application. The key issues identified are discussed below under the main elements of the proposed modification. Other issues considered during the Department's assessment are discussed at **Section 6.5**.

6.1 Subdivision

The proposal seeks to subdivide two existing lots (Lot 4 DP 1197707 and Lot 1 DP 825352) to create four new lots as part of the MPE subdivision plan at Appendix 1 of the MPE Stage 2 subdivision development consent. **Table 4** below provides an overview of the proposed new lots.

Table 4 | New MPE subdivision lots – dimensions and description.

Existing Lot No.	Proposed New Lot No.	Size (ha)	Location Description	Ownership/Responsibility
Lot 4 DP 1197707	Lot 41 DP 1197707	99.09	Residual Boot Land lot	Commonwealth
	Lot 42 DP 1197707	0.90	The rail corridor through the Boot Land (known as Easement G on approved subdivision plans)	Tenant/Operator
Lot 1 DP 825352	Lot 43 DP 825352	3.77	The residual RailCorp wedge-land south of Boot Land and MPE site	RailCorp
	Lot 44 DP 825352	0.25 (15 m wide corridor)	The rail corridor through the RailCorp wedge-land south of the Boot Land and MPE site	Tenant/Operator

The Applicant advised that the proposed new lots are required to:

- allow the rail access corridor to be established as a separate lot (the rail access corridor is currently approved as an easement)
- maintain connectivity and interdependencies between intermodal functions
- provide clear management responsibility for respective lots
- ensure accessibility and functionality of rail access for future warehouse operations (as required under the Development and Operations Deed (DOD) established between Moorebank Intermodal Company and Qube Holdings).

The Applicant asserts that the proposed subdivision would require no physical works and would cause no further environmental impacts beyond those previously assessed under SSD 7628.

The Department notes that proposed Lot 41 DP 1197707 and proposed Lot 42 DP 1197707 would not comply with the minimum subdivision lot size development standard of 120 ha under the LLEP as follows:

Table 5 | LLEP minimum subdivision lot size development standard

Standard	LLEP Control	Proposal summary	Difference (+/-)	Complies
Minimum subdivision lot size	Minimum 120 hectares (ha)	Two non-compliances: <ul style="list-style-type: none"> Proposed lot 42 DP 1197707 at 0.90 ha. Proposed lot 41 DP 1197707 at 99.09 ha 	<ul style="list-style-type: none"> - 119.10 ha - 20.91 ha 	No

As part of the MPE Stage 2 MOD 3 report, the Applicant asserted that the proposed subdivision plan was substantially the same development as previously approved as part of the MPE Stage 2 subdivision development consent. The Applicant provided justification for contravening the minimum subdivision lot size development standard, with reference to clause 4.6(3):

- compliance with the standard is considered unreasonable and unnecessary in the circumstances of the case as the existing Boot Land site (Lot 4 DP 1197707) is already less than the prescribed 120 ha. Subdivision of the Boot Land area is proposed to create a 15 m wide rail access corridor (approximately 0.9 ha) and a residual lot of 99.09 ha. The rail access corridor is currently approved as an easement over the Boot Land area.
- environmental planning grounds for contravening the development standard are:
 - the proposed subdivision would not compromise the ability of the MPE development to meet IN1 General Industrial zone and SP2 Infrastructure zone objectives, or the minimum lot size requirement objectives under Clause 4.1 of the LLEP
 - contravention of the development standard does not raise any matters of significance for state or regional environmental planning
 - exception to the minimum subdivision lot size development standard would not compromise the MPE development from being consistent with the intent of the MPE concept approval.

The Department is satisfied that the modification request is substantially the same development as originally approved and that the proposed subdivision can be appropriately managed through existing conditions of consent.

Further, the proposal seeks to change the naming of the terminal lot in the MPE subdivision plan at Appendix 1 of the MPE Stage 2 subdivision development consent from Lot 25 to Lot 26. The Applicant advised the change is required to ensure the proposed MPE subdivision plan at Appendix 1 is consistent with recent changes made as part of the staged subdivision plan approval for MPE (DPIE, dated December 2019). No further changes to any of the existing lots identified on the MPE subdivision plan are proposed.

In its submission on the modification application, TfNSW raised concern that subdivision of existing Lot 1 DP 825352 and Lot 4 DP 1197707 may complicate delivery of agreed developer contributions set out in the Voluntary Planning Agreement (VPA) between TfNSW and the Applicant. TfNSW also requested further information on the potential impacts of the proposed modification on the Moorebank Avenue Realignment (MARW) proposal and the Cambridge Avenue Upgrade proposal.

As part of the RtS, the Applicant clarified that the proposed subdivision of Lot 1 DP 825352 would not create more lot owners, and SIMTA would remain the owner of 'Easement G' (as outlined in the subdivision plan). The Applicant stated that the inclusion of the newly created lots would not complicate the delivery of agreed developer contributions set out in the VPA.

Further, the Applicant advised that the proposed subdivision would have no impact on the proposed MARW as:

- no physical works are proposed
- the proposed MARW alignment enters and exits the Boot Land lot (Lot 4 DP 1197707) without conflicting with the proposed rail access corridor (proposed Lot 42 DP 1197707, currently referred to as easement 'G' on MPE subdivision plan)
- the proposed MARW alignment enters the RailCorp wedge (Lot 1 DP 825352) without conflicting with the proposed rail access corridor (proposed Lot 44 DP 825352) (**Figure 4**). Notwithstanding, the Applicant advised that interaction between the MARW and proposed Lot 44 DP 825352 is subject to future detailed design.

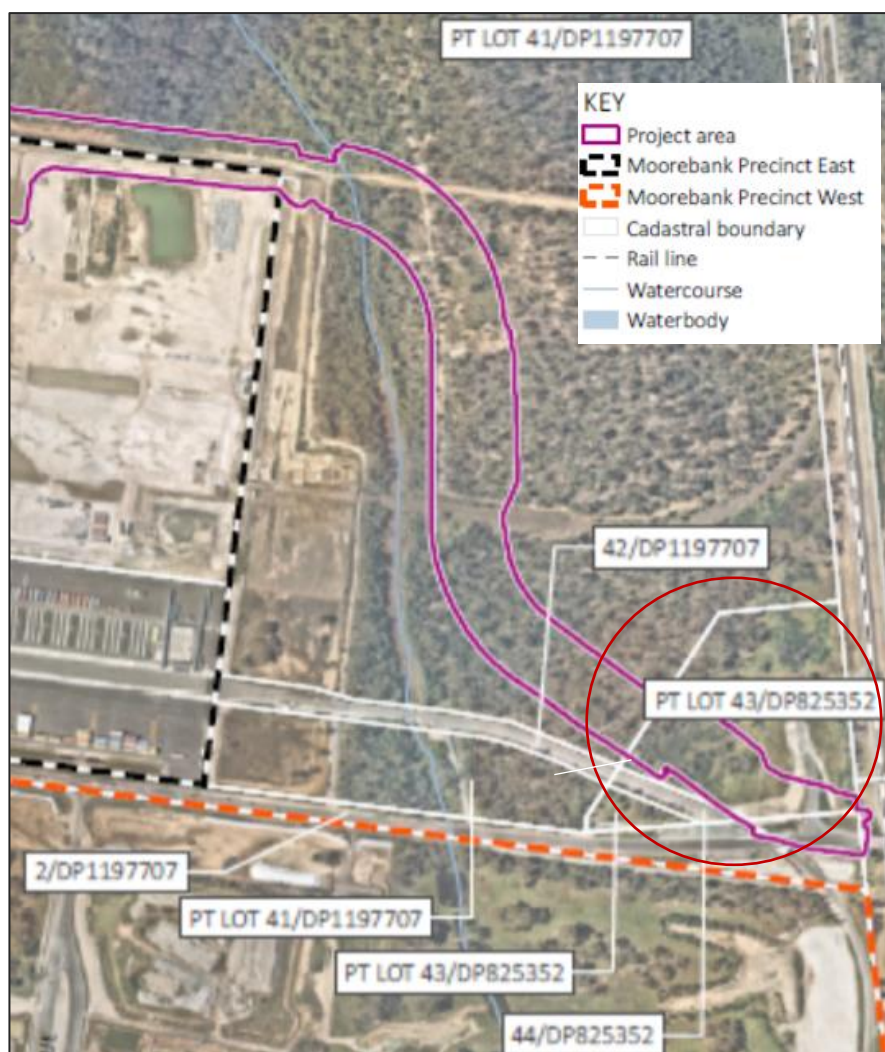


Figure 4 | MARW alignment in relation to MPE subdivision boundaries (Source: Applicant's RtS)

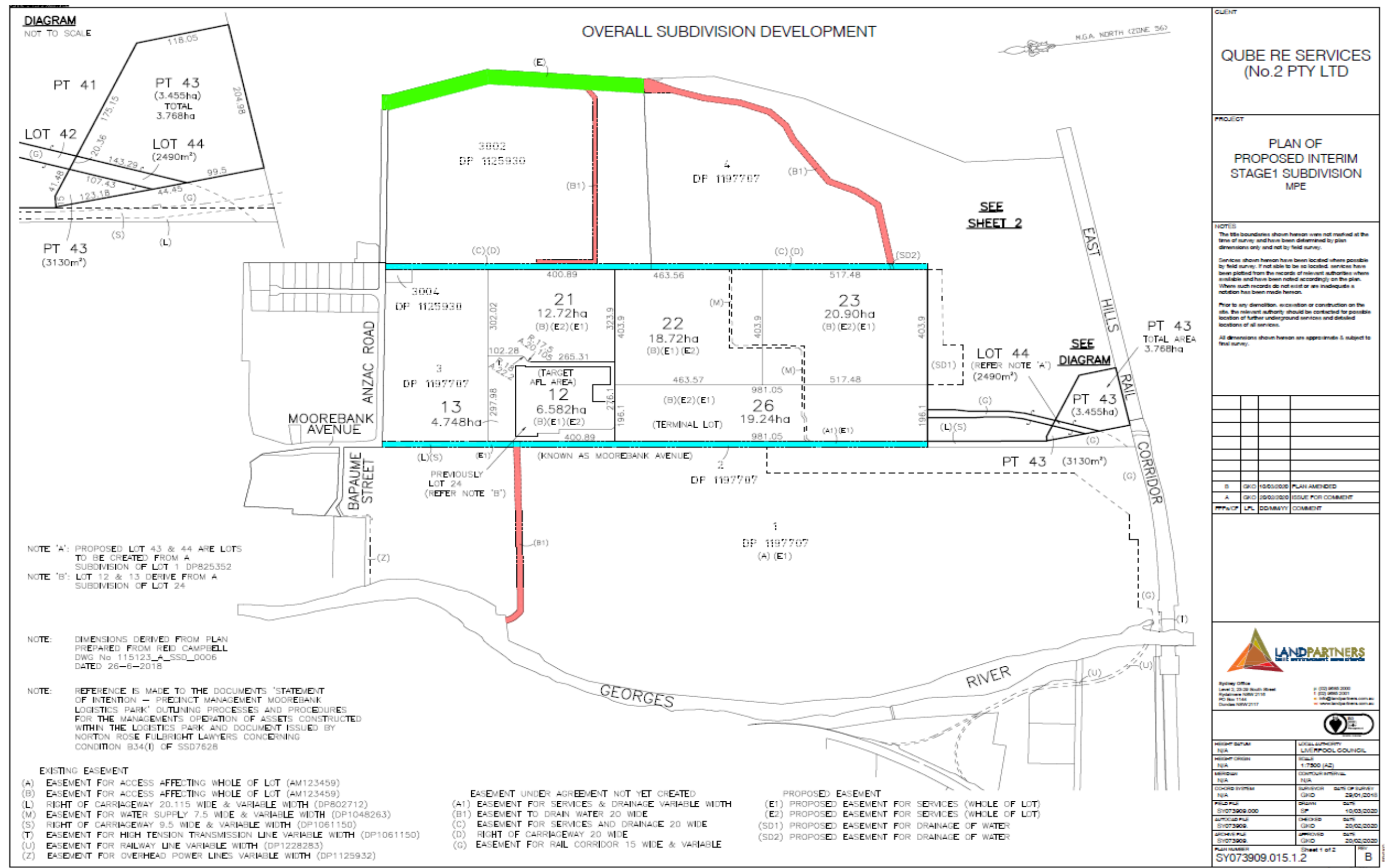
In response, TfNSW recommended that any design for the MARW should enable dedication of all required land as public road, consistent with the VPA, including any encroachment on proposed Lot 44 DP 825352. Council raised no concerns regarding the Applicant's proposed subdivision and clause 4.6 variation request.

Overall, the Department is satisfied that the changes proposed to the MPE subdivision plan would not result in additional environmental impacts to those previously assessed on the MPE site. The proposed changes would provide clear management responsibility and ensure accessibility of the rail access corridor to the MPE intermodal terminal.

The Department reiterates the Applicant's requirement to comply with condition A6 of the MPE Stage 2 subdivision development consent, regarding the staging of subdivision. Under condition A6, prior to the issue of any subdivision certificate (including the first and any subsequent subdivision certificates), the Applicant must provide a revised subdivision plan and supporting information to the Planning Secretary for approval.

The Department proposes to amend Appendix 1 of the MPE Stage 2 subdivision development consent to include the updated subdivision plan for the site (see **Figure 5**). **Figure 5** provides the proposed overall subdivision plan for the MPE site, including existing easements, easements under agreement not yet created and proposed easements.

Further, the Department proposes to modify schedule 1 of the MPE Stage 2 subdivision development consent and schedule 1 of the MPE Stage 2 original development consent, to include Lot 1 DP 825352 (RailCorp wedge) as part of the 'site' as defined in the consent. The inclusion is required to enable subdivision of existing Lot 1 DP 825352 as part of the updated MPE subdivision plan.



6.2 Changed frequency for construction compliance reporting

The modification application proposes to change the frequency for construction compliance reporting required under condition C21(c)(ii) of the MPE Stage 2 original development consent from quarterly to six-monthly.

The Applicant contends that the change would:

- align the project with construction compliance reporting requirements for other stages of MPE and MPW, including MPE Stage 1 (SSD 6766), MPW Stage 1 (SSD 5066) and MPW Stage 2 (SSD 7709)
- enable greater consistency and consolidation of construction compliance reporting requirements across the Moorebank Intermodal Precinct as a whole
- align compliance reporting for the project with the now superseded *Compliance Reporting: Post Approval Requirements* (DPIE, dated June 2018), which required construction compliance reporting to be undertaken at intervals no greater than 26 weeks (i.e. six-monthly) from the date of commencement of construction.

The Department notes that the more recent *Compliance Reporting: Post Approval Requirements* (DPIE, May 2020) has removed the requirement for construction compliance reporting from development consents issued from May 2020. The Applicant advised that the approach to have no construction compliance reporting is inconsistent with compliance reporting requirements for the precinct. Consequently, the Applicant proposes six-monthly construction compliance reporting for MPE Stage 2.

The Department is satisfied that the proposed change for construction compliance reporting to six-monthly would have no implications on the nature, scale or extent of construction impacts and management. The change would have a positive impact by allowing greater consistency in compliance reporting across the precinct.

The Department proposes to amend condition C21(c)(ii) of the SSD 7628 development consent to require six-monthly construction compliance reports.

6.3 Modification to signage

The Applicant has proposed several changes to condition B141(f) of the MPE Stage 2 original development consent, specifically removing the 3-metre height restriction on building integrated signage and clarifying where illuminated signage may be used.

The Applicant also proposed to modify the condition to allow east and south facing illuminated building signage where the signage is appropriately screened and to allow internally illuminated signs where light is not transmitted beyond the site boundary. The Applicant included **Figure 6**, **Figure 7** and **Figure 8** as examples of types of signage proposed. **Table 6** outlines the Applicant's proposed changes to condition B141(f).

SIGNAGE STRATEGY PLAN

STATE SIGNIFICANT DEVELOPMENT

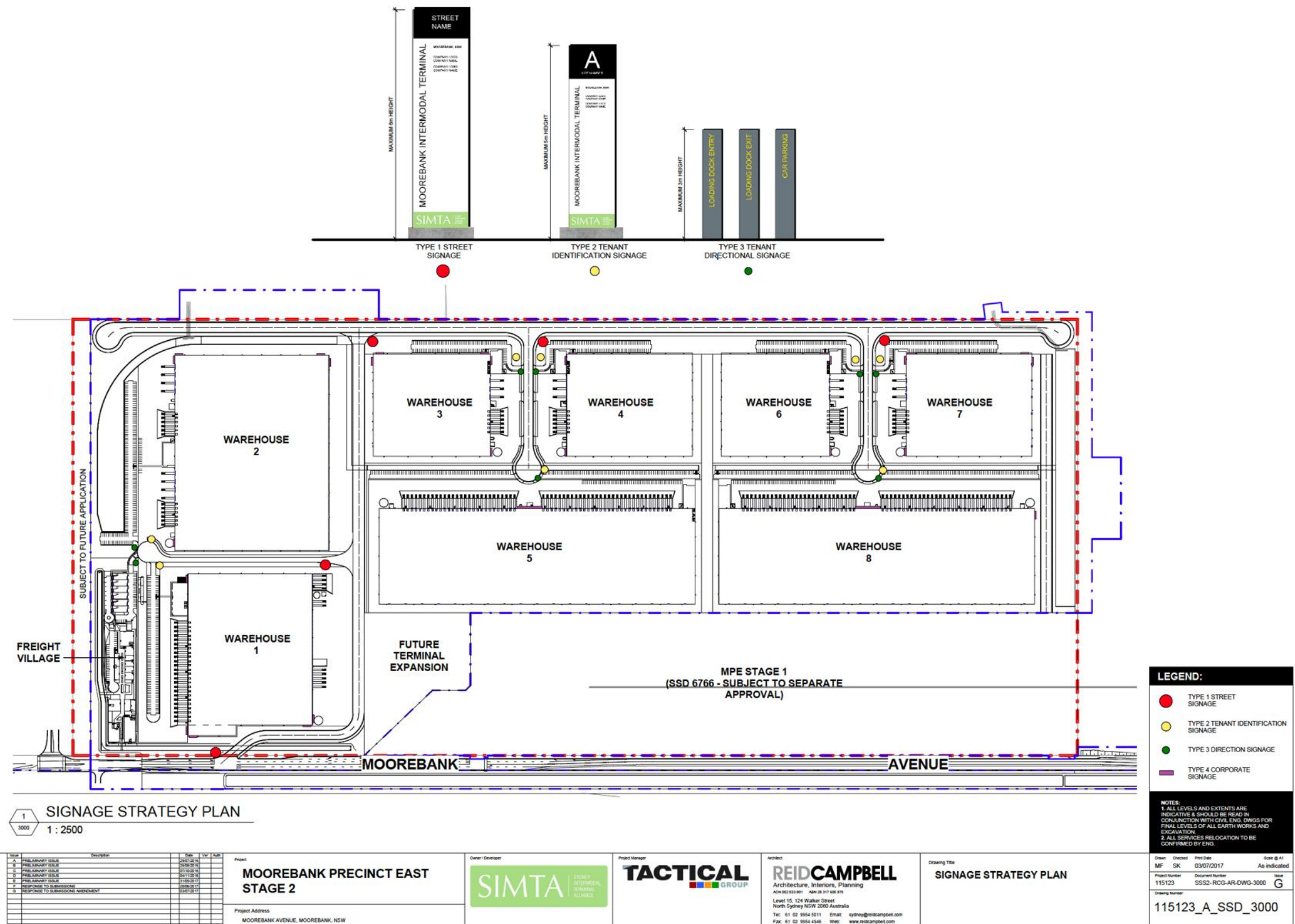


Figure 6 | Examples of wayfinding signage (Source: Applicant's MOD 1 Modification Report)

AREA A WAREHOUSE 2 EXTERNAL FINISHES

STATE SIGNIFICANT DEVELOPMENT

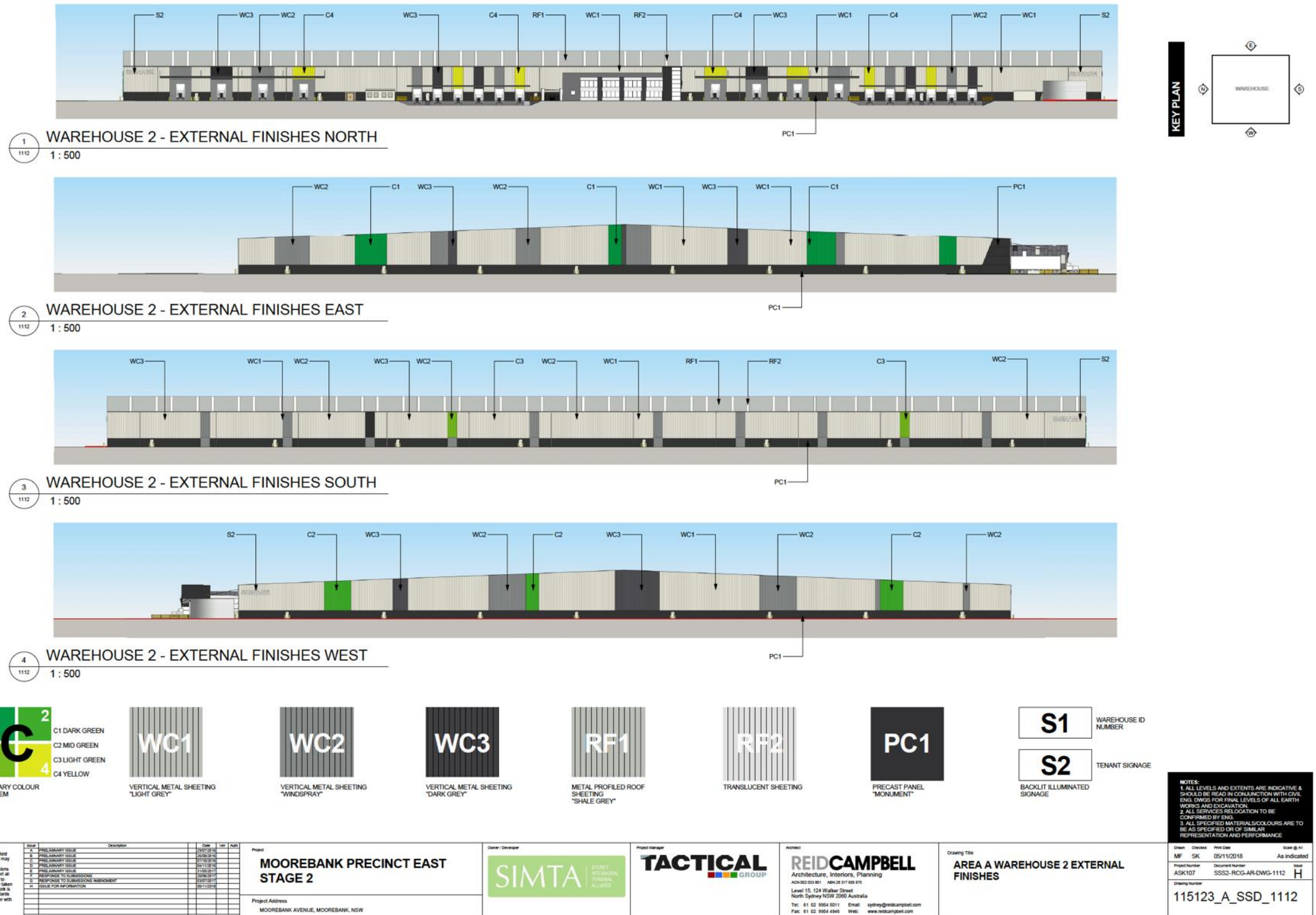


Figure 7 | Examples of warehouse identification signage (Source: Applicant's MOD 1 Modification Report)

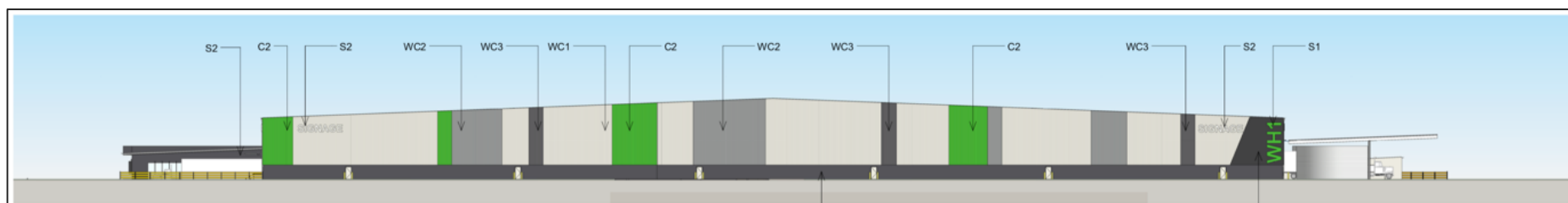


Figure 8 | Examples of warehouse identification signage (Source: Applicant's MOD 1 Modification Report)

Table 6 | Changes to Conditions B141(f) proposed by the Applicant (Source: Applicant's MOD 1 Modification Report)

Existing condition	Reason for modification	Proposed modification
(ii) individual building signage integration within building forms no higher than 3 m above the finished ground;	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.	Delete condition B141(f)(ii) to remove the prescription that individual building signage integration be no higher than 3 m above the finished ground.
(v) no east or south facing illuminated building signage;	<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 [by a prospective tenant], 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>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>Architectural design drawings have been modified to remove eastern and southern facing illuminated signage from buildings on the eastern and southern perimeter.</p> <p>Revision of condition B141(f)(v) to read: "no east or south facing illuminated building signage on building facades with a frontage immediately adjacent the eastern or southern Site boundary"</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).

[As] 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).

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.

(viii) internally illuminated signs are not permitted.

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.

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.

Illuminated signage would aid night-time visibility from the internal Site road network for road users and pedestrians alike.

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.

The intent of the condition is to prevent lighting from being obtrusive, creating a nuisance, reduce light spill and to mitigate visual impact. This outcome is already achieved through compliance with B141(b), and through the interception of radiant light by topography and existing natural vegetation and proposed perimeter landscaping vegetation.

Revision of condition B141(f)(viii) to read:
"internally illuminated signs are not permitted
except where the lighting of signage satisfies the requirements outlined in condition 141(b)"

Several concerns were raised through the submissions process by community submitters, the East Liverpool Progress Association and Council in relation to the visual impact of these changes. The Applicant provided a response to these concerns as part of the MPE Stage 2 MOD 1 RtS and no further concerns were raised by Council following the provision of additional information in the RtS.

The East Liverpool Progress Association raised concerns that the proposed modifications to signage would represent a change to the use of the facility and would allow the use of the site for activities other than those associated with freight using the MPE Stage 1 rail intermodal terminal. The Department considers that the proposed modification does not propose any change in the use of the facility and the installation of general advertising signage would remain prohibited under condition B141(f)(iii). The Department notes that should installation of any general advertising be proposed, this is subject to a further modification application and to the provisions of *State Environmental Planning Policy No 64 – Advertising and Signage*.

In their submission, Council and public submitters raised concerns about the potential off-site visual impacts of raising the permissible height of integrated building signage. The Applicant notes in the MPE Stage 2 MOD 1 RtS that it is not proposed to install additional signage, or to alter the building forms, and therefore proposes the existing visual impact assessment presented in the EIS for the project remains relevant. The Department accepts this position, as there is no proposed change to the height or frame of buildings.

However, the Department notes that the deletion of B141(f)(ii) is proposed by the Applicant as part of the modification. The Department therefore recommends that only the portion of the condition relating to the 3-metre height restriction be removed and the condition be modified to read:

(ii) individual building signage integration within building forms ~~no higher than 3m above the finished ground.~~

In relation to the proposed modification to conditions B141(f)(v) and B141(f)(viii), objection was raised in public submissions to the potential for light spill and off-site visual impacts resulting from changes to lighting. The Department notes these concerns and recommends performance based changes to condition B141(f)(v) and B141(f)(viii). These changes require no illuminated signs to be visible from residences off site, which is an outcomes based requirement, for which compliance can be ascertained and enforced. Further, the proposed changes are consistent with other Moorebank Intermodal development consents, including condition B77 of MPW Stage 2 (SSD 7709).

The purpose of the condition in the approval was to reduce the potential impacts on neighbouring residential receivers. The Department considers that this purpose is served by the revised condition.

6.4 Modification to multiple conditions – general referencing

The Applicant proposes a number of changes throughout the MPE Stage 2 original development consent to clarify referencing. These are administrative in clarifying the purpose of and relationships between conditions. The proposed administrative changes to conditions are outlined in **Table 7**.

Table 7 | Proposed administrative changes to conditions (Source: Applicant's MOD 1 Modification Report)

CoA	Document Referenced	Wording	Comment	Applicant's proposed 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 Condition of Consent (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>
B44	Stormwater Monitoring Program	<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". B44 indicates that the Stormwater Monitoring Program must "assess water quality and quantity performance for construction". The approach, construction monitoring, in B44 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>
B92	Heritage Management Plan	<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>	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	<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>(a) Be prepared by a suitably qualified and experienced person(s)</p> <p>(b) Be prepared in consultation with NSW Heritage Division, Council, relevant landowners and stakeholders including the Moorebank Heritage Group (MHG) and Department of Defence</p>	Environmental Management Plan (OEMP).	<p>(a) Be prepared by a suitably qualified and experienced person(s)</p> <p>(b) Be prepared in consultation with NSW Heritage Division, Council, relevant landowners and stakeholders including the Moorebank Heritage Group (MHG) and Department of Defence</p>
B99	Discovery of Human remains or Aboriginal objects or places	<p>If any Aboriginal object or Aboriginal place is identified on site, or suspected on site:</p> <p>(b) all work in the immediate vicinity of the object or place must cease immediately</p> <p>(j) a 10m buffer area around the object or place must be cordoned off; and</p> <p>(k) OEH must be contacted immediately.</p>	Number seems to be incorrect, i.e. (b), (j), (k).	<p>If any Aboriginal object or Aboriginal place is identified on site, or suspected on site:</p> <p>(b) (a) all work in the immediate vicinity of the object or place must cease immediately</p> <p>(j) (b) a 10m buffer area around the object or place must be cordoned off; and</p> <p>(k) (c) OEH must be contacted immediately.</p>
B139(d)(iii)	Urban Heat Island Mitigation Strategy	UDLP required by condition B141	CoC reference should be B140, which refers to the UDLP.	UDLP required by condition B141 B140 .
B140(l)	Urban Design Landscape Plan (UDLP)	<p>Details of how the principles of Ecologically Sustainable Development listed at condition B143, in particular rainwater capture and reuse and energy efficiency have been incorporated into the UDLP and final Stormwater Management Plan plans required by Condition B40.</p>	<p>CoC reference should be B142, which refers to Ecologically Sustainable Development (ESD).</p> <p>B143 refers to Bushfire Management.</p>	<p>Details of how the principles of Ecologically Sustainable Development listed at condition B143 B142, in particular rainwater capture and reuse and energy efficiency have been incorporated into the UDLP and final Stormwater Management Plan plans required by Condition B40</p>
B140(o)	UDLP	<p>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.</p>	<p>Reference is made to B108 which refers to the Construction Flora and Fauna Management Plan (CFFMP), i.e. a construction document.</p> <p>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.</p>	<p>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.</p>

C9(c)	Revision of plans	<i>the submission of an audit under condition C18</i>	<p>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.</p> <p>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.</p>	<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>	<p>The ER is nominated under CoC C22. Therefore, C24 seems to be an incorrect reference.</p>	<i>Construction must not commence until an ER nominated under C24 C22 has been approved by the Secretary.</i>

In their submission on the EIS, Council raised concerns about changes to referencing and requested clarification on several referencing changes. The Applicant responded to these concerns as part of the MPE Stage 2 MOD 1 RtS. Council confirmed they had no outstanding concerns in relation to the referencing changes.

Based on the Applicant's response to Council in the RtS in relation to condition B140(o), the Department has concerns around the interpretation of the condition. The proposed modification changed a reference to condition B108, the Construction Flora and Fauna Management Plan, to refer to Condition B110, the Operational Flora and Fauna Management Plan. The intent of condition B140(o) referring to condition B108 was to ensure the exclusion of construction works from adjacent offset areas was implemented throughout the construction phase and carried through to the operational phase of the project. This is identified in conditions B108(e) and (f) as a requirement for the Construction Flora and Fauna Management Plan.

In their comments on the EIS, the EPA expressed concern in their submission that some conditions could imply pollution of waters under s120 of the *Protection of the Environment Operations Act 1999* (POEO Act) is permitted. Subsequently, the EPA requested that the consent be modified to make explicit that pollution under s120 POEO Act is not permitted. The Applicant identified in the RtS that they raised no objection to the EPA submission. The Department recommends that a note be added to condition B40 to the effect that no condition in the Consent permits pollution under s120 POEO Act.

The Department is satisfied the changes proposed to the conditions are administrative in nature and are appropriate to clarify the intent of the conditions, with the exception of the proposed modification to condition B140(o). In relation to condition B140(o), the Department recommends that the condition be modified clarifying the reference to be in relation to the Construction Flora and Fauna Management Plan, as well as specifically conditions B108(e) and (f).

6.5 Other issues

Issue	Findings	Recommendations
Biodiversity	<ul style="list-style-type: none"> The original SSD application assessed potential on-site impacts to biodiversity values and impacts to immediately adjoining biodiversity values within the 'Boot Land'. The Department acknowledges that the subject rail access corridor traverses the southern 'Boot Land' area, and that proposed Lot 41 DP 1197707 ('Boot Land' lot) is set to become a biodiversity lot as per the DOD. The Applicant advised that no physical works are proposed as part of modification to the MPE subdivision plan. The proposed modification would not result in additional environmental 	<ul style="list-style-type: none"> No changes to conditions are required.

impacts to those previously assessed under the MPE SSD 7628 consent.

- The Environment, Energy and Science Group of DPIE provided no comment on the proposed modification.
 - The Department is satisfied that the proposed modification would not result in further impacts to biodiversity values.
-

7 Evaluation

The Department has reviewed the proposed modification and RtS, and assessed the merits of the modified proposal. The Department is satisfied that, with the recommended conditions, the proposed changes will be of minimal environmental impact and the project remains substantially the same development as per the original approval.

The Department concludes that the:

- Department has assessed the application and followed relevant procedures in accordance with the *Environmental Planning and Assessment Act 1979* and the Regulations
- proposed modification does not change the use of the site
- proposal is in the public interest.

The Department's assessment concludes that the proposed modification is appropriate. This conclusion is based on the fact the proposal is substantially the same as the original approval, the condition changes proposed do not change the use of the site, and the impacts are minor and subject to acceptable measures, including the development of additional management procedures.

Consequently, the Department considers the proposed modification to be approvable with conditions.

8 Recommendation

It is recommended that the Executive Director, Infrastructure Assessments, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report.
- **determines** that the application SSD 7628 MOD 3 falls within the scope of section 4.55(1A) of the EP&A Act.
- **forms the opinion** under section 7.17(2)(c) of the *Biodiversity Conservation Act 2016* that a biodiversity assessment report is not required to be submitted with this application as the modification will not increase the impact on biodiversity values of the site.
- **accepts and adopts** the findings and recommendations in this report as the reasons for making the decision to approve the modification.
- **modify** the consent SSD 7628.
- **signs** the attached approval of the modification (**Appendix B** – Instrument of Modification).

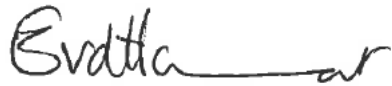
Recommended by:



Nathan Heath
Planning Officer
Social and Infrastructure Assessments

9 Determination

The recommendation is **Adopted** by:

A handwritten signature in black ink, appearing to read 'Erica van den Honert', with a long horizontal flourish extending to the right.

18/12/2020

Erica van den Honert

Acting Executive Director

Infrastructure Assessments

as delegate of the Minister for Planning and Public Spaces

Appendices

Appendix A – List of referenced documents

1. Modification Report

<https://www.planningportal.nsw.gov.au/major-projects/project/35001>

2. Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/35001>

3. Response to Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/35001>

Appendix B – Instrument of Modification

<https://www.planningportal.nsw.gov.au/major-projects/project/35001>

Appendix C – Consolidated Consent

<https://www.planningportal.nsw.gov.au/major-projects/project/35001>