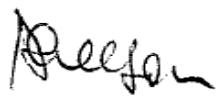
Modification of Development Consent

Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*

The Independent Planning Commission (the Commission), as the declared consent authority under clause 8A of *the State Environmental Planning Policy (State and Regional Development) 2011* and section 4.5(a) of the *Environmental Planning and Assessment Act 1979,* approves the development application referred to in Schedule 1, subject to the conditions in Schedule 2.



Dianne Leeson (Chair)	Alan Coutts	John Hann
Member of the Commission	**Member of the Commission**	**Member of the Commission**

Sydney 30 October 2019

SCHEDULE 1

Development consent:	**SSD 5066** granted by the Planning Assessment Commission on 3 June 2016
For the following:	**Concept Proposal** The Concept involves the use of the site as an intermodal facility, including a rail link to the Southern Sydney Freight Line, warehouse and distribution facilities, and associated works. **Early Works (Stage 1):** involves: the demolition of buildings, including services termination and diversion; rehabilitation of the excavation/ earthmoving training area; remediation of contamination land; removal of underground storage tanks; heritage impact remediation works; and the establishment of construction facilities and access, including site security.
Applicant:	Moorebank Intermodal Company
Consent Authority:	Minister for Planning
The Land:	Intermodal Site: Land generally described as being located on the western side of Moorebank Avenue, between the M5 Motorway and the East Hills Passenger Line, Moorebank, comprising: - Lot 1 DP 1197707 - Lot 100 DP 1049508 - Lot 101 DP 1049508 - Lot 2 DP 1197707 Rail Corridor: Land generally described as being located between the intermodal site and the East Hills Passenger Line to the south, and the northern portion of the Glenfield Waste Disposal Facility to the west, comprising: - Lot 5 DP 833516 - Lot 51 DP 515696 - Lot 104 DP 1143827 - Lot 103 DP 1143827 - Lot 102 DP 1143827 - Lot 4 DP 1186349

Modification:

SSD 5066 MOD 1: the modification includes:

- importation of approximately 1,600,000 m^3 of clean fill for bulk earthworks within the site
- expansion of construction footprint to allow for Moorebank Avenue/ Anzac Road intersection works
- rearrangement of warehousing, freight village, internal roads and truck parking locations and layouts
- additional onsite detention (OSD) basin near the northern boundary of the site and relocation to the western boundary and enlargement of the southern OSD basin
- deletion of the port shuttle (IMEX) rail freight intermodal terminal and an increase in the warehousing area
- use of the interstate terminal for interstate, intrastate and port shuttle rail freight including one additional rail track
- increase in building heights as a result of raising the site by up to 3.6 m
- reducing construction stages from four (excluding Stage 1 Early Works) with potentially only two future development applications
- transfer of containers by heavy vehicles between the MPW warehouses and MPE rail terminal and between the MPE rail terminal and MPW warehouses
- ability to subdivide the site as part of a future development application.

SCHEDULE 2

The consent (SSD 5066) is modified as follows by the deletion of the words/ numbers marked in ~~strike through~~ and insertion of the **bold and underlined** words/ numbers.

(a) Schedule 1 – amend the section **Applicant** to:

Applicant: ~~Moorebank Intermodal Company~~ **SIMTA as Qube Holdings Limited**

(b) Schedule 1 – amend the section **Land** to:

Land: **Moorebank Precinct West** Intermodal Site **(MPW)**:
Land generally described as being located on the western side of Moorebank Avenue, between the M5 Motorway and the East Hills Passenger Line, Moorebank, comprising:

- Lot 1 DP 1197707
- Lot 100 DP 1049508
- Lot 101 DP 1049508
- Lot 2 DP 1197707
- **Part Lot 3 DP 1197707**
- **Part Anzac Road and Moorebank Avenue public road reserves**

(c) Schedule 1 – amend the section **Concept Proposal** to:

Concept Proposal
The Concept involves**:**

- the use of the site as an intermodal facility **for intrastate, interstate and port shuttle freight**, including a **rail terminal,** rail link to the Southern Sydney Freight Line~~,~~ **and** warehouse **estate (including a freight village) servicing the intermodal terminal facility**. ~~**and distribution facilities and associated works.**~~
- **importation of up to 1.6 million cubic metres of uncompacted fill to raise the site by up to 3.6 metres**

(d) Schedule 1 – amend the section **Definitions** with new definitions inserted in alphabetical order:

Applicant	~~Moorebank Intermodal Company~~ **SIMTA, as Qube Holdings Limited, or any person carrying out any development to which this consent applies**
Application	The development application for a concept proposal and early works (Stage 1): Concept Proposal The Concept involves the use of the site as an intermodal facility, including **an intermodal terminal facility,** rail link to the Southern Sydney Freight Line, warehouse and distribution facilities **servicing the IMT and including a freight village**, and associated works **including truck parking and onsite stormwater detention basins.** Early Works (Stage 1) involves: the demolition of buildings, including services termination and diversion; rehabilitation of the excavation/ earthmoving training area; remediation of contaminated land; removal of underground storage tanks; heritage impact remediation works; and the establishment of construction facilities and access, including site security.
Biodiversity Offset Area	**Areas shown on the figure in the Appendix**
Construction **for Early Works (Stage 1)**	Includes all work in respect of the SSD other than: a) survey; acquisitions; or building/road dilapidation surveys; fencing; investigative drilling, excavation or salvage; and

	b) work undertaken in accordance with a strategy or salvage operation required by the conditions of this approval; or minor clearing or translocation of native vegetation that does not comprise ~~and~~ EECs. c) establishment of site compounds and construction facilities d) installation of environmental mitigation measures e) utilities adjustment and relocation that do not present a significant risk to the environment, as determined by the Environmental Representative f) other activities determined by the Environmental Representative to have minimal environmental impact.
ENM	**Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*.**
Estate Infrastructure	**All infrastructure to support operation of warehouses including:** **a) the intermodal terminal facility (including truck waiting area and emergency truck storage area), freight village, internal roads, noise wall, onsite detention basins, stormwater treatment systems, trunk stormwater drainage, landscaping, lighting and signage; and** **b) warehouse truck and light vehicle parking, hardstands, offices, staff amenities and associated landscaping, lighting and signage.**
GFA	**Gross Floor Area**
IMEX	**Import/Export container freight transferred by rail from/to Port Botany**
MPE	**Moorebank Precinct East as identified in MP10-0193 SIMTA Intermodal Facility Concept Plan.**
MPW	**The subject of this consent.**
SSFL	**Southern Sydney Freight Line**
Subject Site	Intermodal Site: Land generally described as being located on the western side of Moorebank Avenue, between the M5 Motorway and the East Hills Passenger Line, Moorebank, comprising: - Lot 1 DP 1197707 - Lot 100 DP 1049508 - Lot 101 DP 1049508 - Lot 2 DP 1197707 - **Part Lot 3 DP 1197707** - **Part Anzac Road and Moorebank Avenue public road reserves** Rail Corridor: Land generally described as being located between the intermodal site and the East Hills Passenger Line to the south, and the northern portion of the Glenfield Waste Disposal Facility to the west, comprising: - Lot 5 DP 833516 - Lot 103 DP 1143827 - Lot 51 DP 515696 - Lot 102 DP 1143827 - Lot 104 DP 1143827 - Lot 4 DP 1186349
VENM	**Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*.**

(e) Schedule 2 – Terms of Approval, Development Description, amend Condition 1:

1. Except as amended by the conditions of this consent, development consent is granted only to the Concept Proposal and Early Works as described in Schedule 1 and the Environmental Impact Statement dated October 2014, as amended by the Response to Submissions, dated May 2015 (as further amended by the Supplementary Response to Submissions dated August 2015), **subsequent modifications as outlined in Condition 4 below** and the conditions contained in this development consent.

(f) Schedule 2 – Determination of Future Applications, amend Condition 2:

2. In accordance with section ~~83B(3)(a)~~ **4.22** of the EP&A Act, all future development under the Concept Proposal (for the avoidance of doubt, excluding the Early Works) shall be the subject of future development application(s).

(g) Schedule 2 – Development in Accordance with Plans and Documents, amend Conditions 4 and 5:

4. The applicant shall carry out the development generally in accordance with the:
   a) Environmental Impact Statement titled Moorebank Intermodal Terminal Project Environmental Impact Statement, prepared by Parsons Brinckerhoff Australia Pty Limited, dated October 2014;
   b) Response to Submissions report titled, Moorebank Intermodal Terminal Response to Submissions Report, prepared by Parsons Brinckerhoff Australia Pty Limited, dated May 2015;
   c) Supplementary Submissions report titled, Moorebank Intermodal Terminal Supplementary Response to Submissions Report, prepared by Parsons Brinckerhoff Australia Pty Limited, dated August 2015; ~~and~~
   d) MOD 1 Report titled, Moorebank Precinct West Intermodal Terminal Facility Concept Plan Approval (SSD 5066) Modification, prepared by Arcadis, dated June 2016;
   e) MOD 1 Response to Submissions report titled, Moorebank Precinct West – Concept Modification Response to Submissions – SSD 5066 MOD 1, prepared by Arcadis, dated December 2016;
   f) MOD 1 Supplementary Response to Submission report titled, Moorebank Precinct West – Concept Modification Supplementary Response to Submissions – SSD 5066 MOD 1, prepared by Arcadis, dated August 2017; and
   ~~d~~ **g**) the conditions of this consent.

5. In the event of an inconsistency between:
   (a) the conditions of this approval and any document listed from condition 4(a) to 4(**f** ~~e~~) inclusive, the conditions of this approval shall prevail to the extent of the inconsistency; and
   (b) any document listed from condition 4(a) to 4(**f** ~~e~~) inclusive, and any other document listed from condition 4(a) to 4(**f** ~~e~~) inclusive, the most recent document shall prevail to the extent of the inconsistency.

(h) Schedule 2 – Limits of Approval, amend Conditions 7, 8, 11, 12, 15 and 16:

7. Concept approval is granted for ~~interstate terminal~~ **a** container ~~freight with a~~ throughput of up to 500,000 TEU p.a. **(excluding IMEX freight)** if the combined movement of container freight on the Subject Site does not exceed 1.05 million TEU p.a. The consent authority must also be satisfied that the Traffic Impact Assessment demonstrates that the ~~interstate terminal~~ **container throughput** would not exceed the capacity of the transport network with or without mitigation measures/upgrades.

8. For ~~the~~ IMEX ~~terminal~~ **freight**, concept approval is granted for ~~the movement of~~ **a** container ~~freight by up to~~ **throughput**:

   a) initially, 250,000 TEU p.a. if the consent authority is satisfied that the Traffic Impact Assessment demonstrates the proposal would not exceed the capacity of the transport network with or without mitigation measures/upgrades;

   b) after the facility has been in operation, an increase of up to an additional 300,000 TEU p.a. if the consent authority is satisfied that monitoring and modelling of the operation of the ~~**IMEX**~~ **intermodal** terminal **facility** demonstrates that traffic movements resulting from the proposed increase in TEU will achieve the objective of not exceeding the capacity of the transport network. The combined movement of container freight on the Subject Site must not exceed 1.05 million TEU p.a.

9. Concept approval is granted for ~~**all**~~ **an intermodal terminal facility** ~~**rail terminals (IMEX and interstate)**~~ incorporating either:
   a) the rail link; or
   b) if a rail link is under construction or has been constructed associated with the SIMTA development as identified in development application MP10_0193, then only a short connection from the ~~**IMEX/interstate**~~ **intermodal terminal facility** ~~**terminals**~~ to the SIMTA rail connection on the eastern side of the Georges River.

11. The Applicant shall install and maintain a rail noise monitoring system on the rail link at the commencement of operation to continuously monitor the noise from rail operations. The system shall capture the noise from each individual train passby noise generation event, and include information to identify:
    a) Time and date of freight train passbys;
    b) Imagery or video to enable identification of the rolling stock during day and night;
    c) LAeq(15hour) and LAeq(9hour) from rail operations; and
    d) LAF(max) and SEL of individual train passbys, measured in accordance with ISO3095; or
    e) Other alternative information as agreed with, or required by, the Secretary.

    The results from the noise monitoring system shall be publicly accessible from a website maintained by the Applicant. The noise results from each train shall be available on the website within 24 hours of it passing the monitor, unless unforeseen circumstances (ie a system malfunction) have occurred. The LAeq(15hour) and LAeq(9hr) results from each day shall be available on the website within 24 hours of the period ending.

    Prior to the commencement of operation, the Applicant shall submit for the approval of the Secretary, justification supporting the appropriateness of the location for rail noise monitoring, including details of any alternative options considered and reasons for these being dismissed. The rail noise monitoring system shall not operate until the Secretary has approved the proposed monitoring location.

    The Applicant shall provide an annual report to the Secretary with the results of monitoring for a period of 5 years, or as otherwise agreed with the Secretary, from the commencement of operation of ~~either the IMEX or interstate terminal (whichever operate first)~~ **the intermodal terminal facility**. The Secretary shall consider the need for further reporting following a review of the results for year 5.

12. Prior to submitting any Development Application for ~~either the IMEX or interstate~~ **the intermodal terminal facility**, the Applicant shall convene a meeting with regard to proposed traffic assumptions and mitigation measures. The Applicant must:
    a) Invite SIMTA, TfNSW, RMS, Liverpool City Council and Campbelltown City Council. Each Council may also invite a maximum of two community representatives to attend.
    b) At the meeting, present the scope and assumptions of the mesoscopic/microsimulation traffic modelling, the draft Traffic Impact Assessment

and any proposed mitigation measures including timing on the delivery of any proposed measures;

c) Publish the meeting minutes and a schedule of action items arising from the meeting, including responsibilities and timeframes on its website;
d) Prepare a written report responding to the action items and consult with RMS on the action items and final mitigation measures; and
e) Provide details of the undertaking and outcomes of this condition in the EIS.

15. The warehousing **and distribution facilities** must only be used for activities associated with freight using the ~~IMEX and interstate terminals~~ **intermodal terminal facility** unless otherwise approved in a subsequent Development Application.

16. Building heights are to be a maximum of 21 metres **above finished surface levels which must be in accordance with Condition 19B** and other structures are to be generally consistent with Appendix D Landscape and Visual Impact of the Response to Submissions dated May 2015.

(i) Schedule 2 – Limits of Approval, amend Condition 17 and insert Condition 17A:

17. Building setbacks are to be generally consistent with Appendix D Landscape and Visual Impact of the Response to Submissions dated May 2015~~.~~ **and allow for stabilised fill batters.**

17A. The maximum GFAs for the following uses apply:
(a) 300,000m^2 for the warehousing and distribution facilities; and
(b) 800m^2 for the freight village.

(j) Schedule 2 – Limits of Approval, amend Condition 18 and insert Conditions 18A and 18B:

18. The layout of the site shall not prevent a possible future pedestrian connection to Casula Railway Station **across the Georges River.**

18A. The layout of the site must not prevent the provision of vegetated wildlife corridors linking the Georges River riparian corridor and Moorebank offset area with the Wattle Grove offset area as shown in the Appendix.

18B. The site must include provision of a riparian corridor, comprising the following:
(i) a buffer zone to the most inland of:
- **40 metres from the top of bank, as surveyed by a registered surveyor, or**
- **the 1% AEP flood extent, excluding the localised depression at the existing major east-west drainage channel, and**

(ii) **an additional 10 metre extension to the buffer zone established in (i) above, where native vegetation is located on or within 10 metres east of the buffer**.

(k) Schedule 2 – Limits of Approval, amend Condition 19 and insert Conditions 19A, 19B and 19C:

19. The layout of the site shall be designed to ensure the heavy vehicles associated with the operation of the ~~**terminals**~~ **intermodal terminal facility** can be accommodated on site in the event of an incident blocking access to the M5 Motorway/Moorebank Avenue to avoid queuing on public roads.

19A. Only VENM, ENM, or other material approved in writing by the EPA is to be brought onto the site.

19B. The total volume of uncompacted fill to be imported must not exceed 1,600,000 m^3 unless it can be demonstrated in a future Development Application that the proposed finished surface level of any filled section of the site does not exceed 16.6 m AHD.

19C. Clearing native vegetation and earthworks including fill importation and placement for a future Development Application must be undertaken in a phased manner to minimise dust and native fauna impacts, with no long term stockpiling of imported fill and no stockpiling of imported material for use as part of a subsequent future Development Application.

SCHEDULE 4

(l) Schedule 4 Future Development Applications – Operational Noise and Vibration, amend Conditions E1, E2, E3 and E4:

E1. To ensure the operational noise impacts are appropriately managed, the following measures must be considered in future Development Applications:

a) Best practice plant for ~~both~~ the ~~IMEX and interstate~~ **intermodal** terminal **facility**, including electronic automated container handling equipment or equipment with equivalent sound power levels;
b) The use of automatic rail lubrication equipment in accordance with ASA Standard T HR TR 00111 ST Rail Lubrication and top of rail friction modifiers;
c) Measures to ensure the rail cross sectional profile is maintained in accordance with ETN–01-02 Rail Grinding Manual for Plain Track to ensure the correct wheel / rail contact position and hence to encourage proper rolling stock steering;
d) A noise barrier on the western side of the haul road;
e) A detailed assessment of sleep disturbance impacts, including: how often noise events occur; the time of day when the occur; and whether there are any times of day when there is a clear change in the noise environment; and
f) A risk assessment to determine if non-tonal reversing alarms can be fitted as a condition of site entry. Alternatively, site design may include traffic flow that does not require or precludes reversing of vehciles.

E2. Development Applications for ~~both~~ the ~~IMEX and interstate~~ **intermodal** terminal **facility** shall include a report to identify:

a) The extent of brake squeal across the fleet of rail vehicles that will frequently use the terminals. This should identify the number of occurrences of brake squeal, the typical noise levels associated with brake squeal (including the frequency content), and the operational conditions under which brake squeal occurs (e.g. under light braking, hard braking, low / medium / high speed, effects of temperature and weather, etc.);
b) The root cause of brake squeal, including the influence of the design, set-up and maintenance of both brake shoes and brake rigging;
c) Possible solutions to mitigate or eliminate brake squeal, including modifications to brake rigging and alternative brake shoe designs and compounds; and
d) Any monitoring system proposed to capture brake squeal.

E3. Development Applications for the ~~IMEX~~ **intermodal** terminal **facility** shall detail how the expected port shuttle locomotives incorporate available best practice technologies.

E4. Development Applications for ~~either~~ the ~~IMEX or interstate~~ **intermodal** terminal **facility** shall consider the effect of headlight glare on surrounding sensitive receivers.

(m) Schedule 4 Future Development Applications – Traffic, amend Condition E10, insert Condition E11A and replace Condition E12:

E10. Development Applications for ~~either the IMEX or interstate~~ **the intermodal** terminal **facility** shall include documentation demonstrating how Condition 14 of this approval has been satisfied.

E11A. All future Development Applications must assess traffic impacts associated with fill importation and identify management measures.

~~E12. All future Development Applications must include adequate measures to prevent heavy vehicles associated with the construction or operation of the facility from using Cambridge Avenue.~~

E12. **All future Development Applications must include adequate measures to prevent heavy vehicles associated with the construction or operation of the facility from using Cambridge Avenue.**

(n) Schedule 4 – Future Development Applications, Section 94 Contributions, amend heading to:

~~**Section 94**~~ **Infrastructure** Contributions

(o) Schedule 4 Future Development Applications, Biodiversity – amend Condition E16 and insert Conditions E16A and E16B.

E16. All future Development Applications shall include the following **vegetated** riparian corridor widths (measured **landward** from the top of bank) **and provide detailed drawings demonstrating compliance with this requirement**:

a) a minimum of 50 metres wide associated with the rail corridor; ~~and~~
b) a minimum of 40 metres wide along the terminal site**; and**
c) **compliance with condition 18B**.

E16A. All future Development Applications must demonstrate that onsite detention basins are located outside the riparian corridor and the outlets have been designed to minimise impacts on the riparian corridor.

E16B. All future Development Applications must include an assessment of the impact of the development on core Koala habitat and provide a detailed assessment of options to manage and minimise impacts.

(p) Schedule 4 Future Development Applications – Landscaping, amend heading and insert Conditions E17A and E17B:

Visual Amenity, Urban Design and Landscaping

E17A. All future Development Applications must include:

a) an assessment of the visual impact of the raised landform, built form (materials and finishes) and urban design (height, bulk and scale) including lighting and signage when viewed from residential areas; and
b) details of measures to mitigate impacts.

E17B. All future Development Applications must present designs that incorporate the principles of:

a) Water Sensitive Urban Design (WSUD) and Urban Heat Island Mitigation (UHIM); and

b) NSW Government Architect's "Greener Places" policy.

(q) Schedule 4 Future Development Applications – Soil and Water, insert Condition E22A:

E22A. All future Development Applications must demonstrate that the proposed development, including the importation and placement of fill, will not adversely impact on or be adversely impacted by long term management or monitoring of remediation required under the Stage 1 Early Works in relation to contaminated land management.

(r) Schedule 4 Future Development Applications – Bushfire Management, insert Condition E24A:

E24A. All future Development Applications must demonstrate that bushfire asset protection zones do not impact on biodiversity offset areas and the Georges River riparian corridor.

(s) Schedule 4 Future Development Applications – insert new Conditions E26 (Subdivision), E27 (Staging), E28 (Cumulative Impacts) and E29 (Interaction between MPW and MPE sites):

Subdivision

E26. Any future Development Application for subdivision must:

a) demonstrate compliance with the minimum lot size specified in the Liverpool Local Environmental Plan;

b) demonstrate compliance with Condition 15 of this consent;

c) include a subdivision plan showing completed estate works including but not limited to site services, internal roads, maintenance access roads, pedestrian paths, landscaping, lighting of common areas, provision for emergency services including for firefighting, onsite detention basins and stormwater treatment systems;

d) include a detailed management and maintenance program for estate infrastructure; and

e) nominate a single entity responsible for implementation of the management and maintenance program.

Staging

E27. Any future Development Applications that propose staging of construction must provide details of staging which:

a) describes how the development will relate to other future development stages including those on the MPE site;

b) describes how estate infrastructure will be delivered in conjunction with warehouse construction;

c) includes an indicative construction program for both MPW and MPE;

d) documents how compliance with the requirements of conditions in this Schedule (Schedule 4) will be achieved; and

e) demonstrates that estate infrastructure will be delivered prior to operation of the intermodal terminal facility, warehousing delivered in each stage, and the freight village.

Cumulative Impacts

E28. All future Development Applications must provide the timing for construction and operation on both the MPW and MPE sites and provide cumulative assessments for construction and operation on the MPW and MPE sites including, but not limited to:

a) **traffic and access impacts;**

b) **noise and vibration impacts;**

c) **air quality impacts;**

d) **stormwater drainage impacts;**

e) **ecological impacts.**

Interaction between MPW and MPE sites

E29. Any future Development Application that proposes the use of infrastructure on the MPE site or integration of operations across the MPW and MPE sites must:

a) **demonstrate that there will be no overall increase in cumulative construction and operational environmental impacts;**
b) **describe the relationship between similar facilities on each site such as the intermodal terminal facilities and freight villages;**
c) **provide a mechanism to record the TEUs supplied and received at each of the MPW and MPE intermodal terminal facilities to demonstrate compliance with condition 7 and 8 of this consent and conditions 1.6 and 1.7 of the MPE Concept Plan (MP 10_0193) approval;**
d) **provide an overall Precinct (MPW + MPE) layout and design drawings, including for:**
    (i) **access to the Precinct,**
    (ii) **internal access and connections for pedestrians and vehicles including for the transfer of containers between intermodal terminal facilities and warehouses,**
    (iii) **public access including vehicle access between Anzac Road and Cambridge Avenue, public transport and pedestrian/cyclist connections,**
    (iv) **stormwater infrastructure including stormwater treatment and detention, and**
    (v) **landscaping and directional signage; and**
e) **outline management and maintenance arrangements for the use of infrastructure on the other site.**

End of modification
(SSD 5066 MOD 1)