# MOOREBANK INTERMODAL TERMINAL FACILITY COMMONWEALTH COMPLIANCE REPORT

EPBC Approval No. 2011/6229

Reporting period: 23 June 2019 to 22 June 2020

# QUBE HOLDINGS LIMITED
# MOOREBANK INTERMODAL TERMINAL FACILITY COMMONWEALTH COMPLIANCE REPORT

## EPBC Approval No. 2011/6229

| | | |
|---|---|---|
| **Author** | [redacted] | [redacted] |
| **Checker** | [redacted] | [redacted] |
| **Approver** | [redacted] | [redacted] |

**Report No** ASP-EN-RPT-COMM-MPE-003
**Date** 22/09/2020
**Revision Text** 1

This report has been prepared for SIMTA. Aspect Environmental Pty Ltd cannot accept any responsibility for any use of or reliance on the contents of this report by any third party.

## Declaration of Accuracy

In making this declaration, I am aware that sections 490 and 491 of the *Environment Protection and Biodiversity Conservation Act* 1999 (Cth) (EPBC Act) make it an offence in certain circumstances to knowingly provide false or misleading information or documents. The offence is punishable on conviction by imprisonment or a fine, or both. I declare that all the information and documentation supporting this compliance report is true and correct in every particular. I am authorised to bind the approval holder to this declaration and that I have no knowledge of that authorisation being revoked at the time of making this declaration.

Signed [redacted]

Full name (please print) Position (please print) [redacted]

Organisation (please print including ABN/ACN if applicable):

Qube Holdings Limited (ACN: 149 723 053)

Date 22/9/20

## Revisions

| Revision | Date | Description | Prepared By | Approved By |
|---|---|---|---|---|
| 000A | 30/06/2020 | Draft | [redacted] | [redacted] |
| 1 | 22/09/2020 | Final | [redacted] | [redacted] |

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# 1 INTRODUCTION

## 1.1 Description of Activities

| EPBC number | 2011/6229 |
|---|---|
| **Project name** | SIMTA Moorebank Intermodal Terminal Facility |
| **Person to Whom the Approval is Granted** | Sydney Intermodal Terminal Alliance comprising:<br>• Qube Holdings Limited (ACN: 149 723 053) and<br>• Aurizon Holdings Limited (ACN: 146 335 622). |
| **Approved Action:** | To construct and operate the Sydney Intermodal Terminal Alliance (SIMTA) Moorebank Intermodal Terminal Facility and associated rail infrastructure, including a rail link to the Southern Sydney Freight Line, approximately 27 km south-west of Sydney's CBD [See EPBC Act referral 2011/6229 and 'Notification of variation of proposal to take action' dated 13 November 2012). |
| **Location of the Project** | Sydney, NSW |
| **Person Accepting Responsibility for the Report** | Qube Holdings Limited (ACN: 149 723 053) |
| **Reporting Period** | 23 June 2019 to 22 June 2020 |
| **Report Date** | 22 September 2020 |

## 1.2 Purpose of this Report

The Moorebank Intermodal Terminal (MIT) Facility was approved on 6 March 2014 under Sections 18, 18A, 26 and 27A of the *Environmental Protection and Biodiversity Conservation Act* 1999 (EPBC Act).

Compliance tracking and reporting requirements are specified in Condition of Approval (CoA) Administrative Conditions C12. The Condition states:

> *Within three months of every 12 month anniversary of the commencement of the action, the person taking the action must publish a report (the Compliance Report) on their website addressing compliance with each of the conditions of this approval, including implementation of any management plans or agreements as specified in the conditions. Documentary evidence providing proof of the date of publication and non-compliance with any of the conditions of this approval must be provided to the Department at the same time as the Compliance Report is published. The person taking the action must continue to annually publish the Compliance Report until such time as agreed in writing by the Minister.*

Construction of the MIT commenced on 22 June 2017.

A variation to the EPBC 2011/6229 approval amending CoAs 7(b) and 8(a) was approved the Secretary's representative on 19 August 2019.

This report summarises construction progress and compliance against the relevant CoA for the reporting period 23 June 2019 to 22 June 2020. Compliance with the CoA is provided in Appendix C.

This report has been prepared by Aspect Environmental Pty Ltd with input from SIMTA, Tactical, Archile and the construction contractors.

# 2 PROJECT DESCRIPTION

## 2.1 Precinct Overview

SIMTA and Moorebank Intermodal Company (MIC) entered into an agreement to develop the MIT Facility. When completed, the MIT will move 1.5 million shipping containers annually by rail instead of road. It will also feature Australia's largest purpose-built warehouse and distribution precinct serviced by the latest automated technology which will see driverless shuttle carriers collect and transport containers around the precinct to be processed, unpacked and stored on site or distributed in smaller consignments.

The MIT Facility comprises the Moorebank Precinct East (MPE) and Moorebank Precinct West (MPW). The works approved under EPBC 2011/6229 are located within MPE, as shown in Annexure B of the Approval.

Contractors have been appointed to undertake three packages of works under the current approvals across MPE.

The works within MPE are broken down into the following works packages:

- MPE Stage 1, Package 1 – construction of the rail link (RALP)
- MPE Stage 1, Package 2 – construction of the import-export terminal (IMEX)
- MPE Stage 2 – construction of warehousing and associated infrastructure and Moorebank Avenue upgrade works.

Details of the scope of works for each package is provided in Section 0.

## 2.2 Site Location

The MIT Facility is located approximately 27 km south-west of the Sydney CBD and approximately 26 km west of Port Botany within the Liverpool Local Government Area in Sydney's South West Sub-Region, approximately 2.5 km from the Liverpool City Centre.

The MPE site is generally bounded to the west by Moorebank Avenue, the East Hills Railway Line to the south, and the former Defence National Storage and Distribution Centre to the north and east. The site was previously developed and comprised low-rise buildings, including warehouses and administrative offices with direct frontage to Moorebank Avenue.

The site is situated on relatively flat topography.

## 2.3 MPE Works Packages

The key components for the works within MPE are described in the following sections.

### 2.3.1 MPE Stage 1 Package 1: RALP

Package 1 includes the following key components:

- A northbound connection and a southbound connection to the South Sydney Freight Line (SSFL)
- Civil and earthworks, including remediation works and benching

- A reinforced earth wall (REW) and soil nail embankments within the Glenfield Waste Services (GWS) landfill site
- A bridge over the Georges River
- A culvert crossing over Anzac Creek
- Installation of new Moorebank Avenue overbridge
- Service relocation and protection
- Track work
- Signalling systems
- Security fencing.

### 2.3.2 MPE Stage 1 Package 2: IMEX

Package 2 IMEX includes the following key components:

- Truck processing, holding and loading areas - entrance and exit from Moorebank Avenue
- Rail loading and container storage areas – installation of four rail sidings with adjacent container storage area serviced by manual handling equipment initially and overhead gantry cranes progressively
- Administration facility and associated car parking – light vehicle access from Moorebank Avenue.

### 2.3.3 MPE Stage 2

MPE Stage 2 includes the following key components:

- Warehousing and distribution facilities, including a freight village for ancillary retail, commercial and light industrial land uses
- Internal road network and hardstand across the site
- Ancillary supporting infrastructure within the site
- Moorebank Avenue upgrade
- Intersection upgrades along Moorebank Avenue.

# 3 SCOPE OF REPORTING

The physical works that have been undertaken during the 23 June 2019 to 22 June 2020 reporting period are outlined below.

## 3.1.1 MPE Stage 1 Package 1 (RALP)

The following works have been undertaken during the reporting period:

- defects rectification works
- completion of the roadworks and pavement testing on Moorebank Avenue
- completion of the permanent way and rail system works
- completion of causeway removal
- completion of soil nail wall and rubbish fence installation
- Georges River Bridge drainage works
- site landscaping and rehabilitation
- rail commissioning and testing.

## 3.1.2 MPE Stage 1 Package 2 (IMEX)

The following works have been undertaken during the reporting period:

- installation of internal and lead-in services and drainage infrastructure
- placement of heavily bound pavement and asphalt pavement
- commencement of construction of automated gantry crane
- completion of site entrance upgrade works including kerb and guttering
- container plate installation
- LV/HV cable installation
- fencing and footings
- gate installation
- MSS construction
- spoon drain replacement and
- asphalt repair.

## 3.1.3 MPE Stage 2

The following works have been undertaken during the reporting period:

- bulk earthworks including importation of clean general fill and engineered fill and vegetation clearing
- remediation, heritage salvage and demolition of existing onsite buildings
- establishment of a site access point at the existing MPE site northern access
- establishment of temporary site fencing, a site compound(s) and temporary car parking areas
- installation of hardstand and internal road furniture
- Installation of on-site detention (OSD) and drainage infrastructure
- partial removal of disused rail spur at the southern end of the site

- construction and internal fit-out of Warehouses 1, 3 and 4
- landscaping around Warehouses 1, 3 and 4
- construction of Warehouse 5
- independent fill verification.

### 3.1.4 MPE Operational Activities

The MPE Stage 1 terminal facility is partially operational in manual mode and will progressively develop to integrate the automation function. MPE Stage 1 terminal operations will progress from 250,000 twenty-foot equivalent units (TEU) per annum up to 500,000 TEU per annum and then up to 1,050,000 TEU per annum, however, current operational activities are limited to approximately one rail movement per day and manual handling of containers on site.

Limited warehouse operations have also progressively commenced onsite.

## 3.2 Contractors

Contractors on-site during the reporting period are shown in Table 1, indicating the start and finish date and key activities.

*Table 1 – Details of contractors working on MPE site*

| Contractor | Package | Start Date | Finish Date | Key Activities |
|---|---|---|---|---|
| **Liberty Industrial** | IMEX No.1 | 5 July 2017 | 25 Nov 2017 | Demolition of existing warehouses and hardstands to clear the site. |
| | Stage 2 | 5 July 2017 | Aug 2019 | Site remediation and vegetation removal. |
| **Fulton Hogan** | IMEX No.1 | 15 Sep 2017 | TBC | Bulk earthworks (including placement of imported fill and undertaking cut to fill), installation of drainage and utilities and pavement works. |
| | Stage 2 | 23 July 2018 | TBC | |
| **CPB** | RALP No. 1 | 10 July 2017 | TBC | Rail West Compound (GWS Compound) set-up, bulk earthworks, construction of rail link (including within IMEX No. 1) and defects rectification. |
| **CARAS** | IMEX No.1/ RALP No.1 | 8 May 2017 | TBC | Site safety audits and independent material verification. |
| **Elton Consulting** | Whole precinct | 30 June 2016 | TBC | Community consultation. |
| **Hansen Yuncken** | W1P & Area 2 | 7 May 2018 | TBC | Warehouse 1 construction and fitout.<br>Warehouse 3 and 4 construction and fit-out (including drainage infrastructure works in Area 3 and 5 which will support Area 2 warehouse construction). |

| Contractor | Package | Start Date | Finish Date | Key Activities |
|---|---|---|---|---|
| **BMD** | MAUW | July 2019 | TBC | Detailed design and construction for Moorebank Avenue Upgrade. |
| **Qanstruct** | Area 2 | January 2020 | TBC | Warehouse 5 construction and fit-out. |

# 4 NEWLY IDENTIFIED ENVIRONMENTAL RISKS

## 4.1 Unexpected Asbestos Finds

Unexpected asbestos finds have been identified across the site, as well as in anthropogenic fill and buried services constructed out of asbestos containing material (ACM).

The risk of asbestos finds, and appropriate management of asbestos is outlined within the induction and site staff are reminded of the requirements during pre-starts when necessary as general awareness and prior to ground-breaking activities.

The unexpected contamination finds were managed in accordance with Remediation Action Plan (RAP), that is, works stopped immediately and the area delineated and signposted. An asbestos hygienist was notified to inspect the find and remove the asbestos under restricted access and conditions with correct asbestos removal personal protective equipment. The ACM was then classified and removed and disposed of by licensed and approved contractors. The hygienist provided clearance and validation of contaminated areas and will include the unexpected finds in the final validation reports to be presented to the NSW EPA Accredited Site Auditor in accordance with the *Contaminated Land Management Act,* 1997.

The risk of asbestos finds and appropriate management of asbestos is outlined within the induction and site staff were reminded of the requirements during pre-starts, when necessary as general awareness, and prior to ground disturbance activities.

On 19 October 2019, fragments of ACM were encountered during excavation of a stormwater pipe trench. The unexpected contamination finds were managed in accordance with the Contamination Management Plan i.e. works stopped immediately. A licensed asbestos assessor was notified and removed the identified ACM fragments on 22 October 2019. During this clearance inspection, a further two fragments were identified and subsequently removed. Due to the small amount of non-friable asbestos, air monitoring was not conducted.

## 4.2 Unexpected Heritage Finds

On 3 March 2020, whilst removing material from the MADR alignment, unexpected building footings were discovered. The unexpected heritage find was managed in accordance with the Construction Heritage Management Plan i.e. works stopped immediately, client and NSW Heritage notified.

The risk of heritage finds, and appropriate management is outlined within the induction and site staff are reminded of the requirements during pre-starts when necessary as general awareness and prior to ground-breaking activities.

# 5 COMPLIANCE SUMMARY

## 5.1 Independent Audit, Potential Breach & Warning Letters

On 3 May 2019, SIMTA was directed by the Department of Environment and Energy (DotEE) to undertake an independent audit of conditions attached to EPBC 2011/6229. The Independent Audit was completed by Wolfpeak and a report was issued on 7 August 2019 outlining a number of non-compliances.

On 11 September 2019, the DotEE issued a Potential Breach of Approval Conditions Letter to Tactical Group outlining a number of non-compliances with conditions of approval attached to the SIMTA Intermodal Terminal Facility (EPBC 2011/6229).

On 26 September 2019, on behalf of SIMTA, Allens Linklaters issued a response to the DotEE Potential Breach letter. This response included additional information and evidence to close out one of the three non-compliances that was documented in the Potential breach of Approval Conditions Letter.

On 29 October, the DotEE issued a Warning Letter to Tactical Group in relation to two non-compliances with conditions of approval attached to the SIMTA Intermodal Terminal Facility (EPBC 2011/6229) in contravention of section 142B of the *Environment Protection and Biodiversity Conservation Act* 1999 (the Act).

The Potential Breach Letter, Qube's response and the Warning Letter are presented in Appendix A.

The two non-compliances are detailed as follows:

- **Condition 9** - failure to submit the required copy of an agreement between the approval holder and Department of Defence outlining the use and ongoing maintenance of Moorebank Avenue, prior to commencement and
- **Condition 14** - acting under an unapproved MPE Stage 2 Construction Environmental Management Plan and Construction Flora and Fauna Management Plan, prior to the Minister's approval.

Moorebank Avenue is owned by the Commonwealth. At Financial Close (FC) between MIC and QUBE executed on 25 January 2017, Moorebank Ave (Lot 2 DP1197707) was transferred within the Commonwealth from Defence to Department of Infrastructure, Regional Development and Cities (DIRD). MIC has a lease with DIRD and Qube has a 99-year lease with MIC under the Development and Operations Deed (DOD) from the date of FC. An extract of the DoD agreement was provided to the DPIE in a letter dated 25 September. The non-compliance was issued because a copy of the DoD agreement had not been provided prior to commencement of construction.

The Construction Environmental Management Plan Moorebank Precinct East Stage 2 (dated 30 August 2019) and the Construction Flora and Fauna Management Plan (dated 23 August 2019) were approved by the Department of Agriculture, Water and Environment (DAWE, formerly the DotEE) on 27 September 2019 (See Appendix B).

These two non-compliances are considered closed.

## 5.2 Conclusion

At the completion of this compliance reporting period, it has been deemed that there are no non-compliance issues identified and works were undertaken in accordance with the Commonwealth Conditions of Approval and management plans, as demonstrated by the compliance table located in Appendix C.

# APPENDIX A - DOTEE POTENTIAL BREACH LETTER, SIMTA RESPONSE AND DOTEE WARNING LETTER

Australian Government
Department of the Environment and Energy

Our reference: CAS3342
Email: EPBCmonitoring@environment.gov.au

Sydney Intermodal Terminal Alliance
C/- Mr Steve Ryan
Managing Director
Tactical Group
Level 15, 124 Walker Street
North Sydney, NSW 2060

Dear Mr Ryan

**Breach of approval conditions attached to EPBC 2011/6229**

I refer to the Department of the Environment and Energy's (the Department) letters of 11 February 2019 and 11 September 2019 regarding non-compliance with conditions of approval attached to the SIMTA Intermodal Terminal Facility (EPBC 2011/6229) in contravention of section 142B of the *Environment Protection and Biodiversity Conservation Act 1999* (the Act). I am writing to advise you of the outcome of those enquires.

Based on information available to the Department, I am satisfied there is sufficient evidence that section 142B of the Act has been contravened. Specifically, non-compliance with the following conditions:

a) **Condition 9** - failure to submit the required copy of an agreement, between the approval holder and Department of Defence outlining the use and ongoing maintenance of Moorebank Avenue, prior to commencement; and

b) **Condition 14** - acting under an unapproved MPE Stage 2 Construction Environmental Management Plan and Construction Flora and Fauna Management Plan, prior to the Minister's approval.

Under section 142B of the Act, an approval holder must comply with conditions attached to an approval. The Act provides for a range of enforcement mechanisms to address non-compliance with conditions, including civil or administrative measures such as Infringement Notices of up to $12,600 for each contravention, directed variations to conditions, and/or directed audits.

As you are aware, on 3 May 2019 Sydney Intermodal Terminal Alliance (SIMTA) were directed to undertake an independent audit of conditions attached to EPBC 2011/6229. Following consideration of the findings from the independent audit completed by WolfPeak in August 2019, the mitigation measures implemented by SIMTA and having regard to the Department's Compliance Policy, the Department has concluded that an appropriate response to this matter is that Tactical Group receive a formal warning for contravening section 142B of the Act.

Please note that this matter will be recorded and considered as part of SIMTA's environment history, and will be taken account of in any future dealings with the Department in relation to the Act and environmental matters.

After consultation with the Department's Post Approvals Section, I understand the construction of the Rail Access Land Package (RALP) will soon be completed. As a result, there will be no further consideration of the revised RALP Construction Environmental Management Plan (CEMP) and Construction Flora and Fauna Management Plan (CFFMP). Please continue to work closely with the Post Approvals Section to ensure the revised Import Export Terminal CEMP and CFFMP are consistent with the EPBC 2011/6229 conditions of approval.

Should you have any questions about the matters raised in this letter, please email me at epbcmonitoring@environment.gov.au.

Yours sincerely,

Dr Grant Liddy
Director
Environmental Audit Section
29 October 2019

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25 September 2019

Grant Liddy
Director
Environmental Audit Section
Office of Compliance
Department of the Environment and Energy
GPO Box 787
Canberra ACT 2601

**By email: EPBCmonitoring@environment.gov.au**

Dear Mr Liddy

## Additional information arising from independent audit - EPBC 2011/6229

We refer to the letter from the Department of the Environment and Energy (the ***Department***) to the Sydney Intermodal Terminal Alliance (***SIMTA***) dated 11 September 2019 in respect of approval EPBC 2011/6229 granted under the *Environment Protection and Biodiversity Conservation Act 1999* (***EPBC Act***) on 6 March 2014. You letter refers to the independent audit report completed by WolfPeak in August 2019.

Your letter seeks information regarding the current status of Conditions 1, 9 and 14 of EPBC 2011/6229 and the rectification measures that have been implemented by SIMTA that the Department should be aware of.

We are instructed to provide the following response on behalf of SIMTA.

We refer to our letter to the Department dated 11 March 2019 on behalf of Qube Holdings Limited (***Qube***) which is SIMTA's parent company. We repeat the statement made at the start of that letter that Qube takes very seriously its obligations to comply with all environmental laws applicable to the Moorebank Intermodal Terminal project, including the *Environment Protection and Biodiversity Conservation Act 1999 (**EPBC Act**)*. Again, our client looks forward to continuing to cooperate with the Department in relation to this matter.

### 1 Condition 1 – Pre-clearance surveys

Your letter dated 11 September 2019 states that the Department has not received the results of the pre-clearance surveys that SIMTA was required to undertake in accordance with Condition 1.

As noted on page 7 of the Audit Report, SIMTA undertook pre-clearance surveys in accordance with Condition 1.

We enclose copies of these pre-clearance surveys.

We trust that this resolves any concerns regarding SIMTA's compliance with Condition 1.

### 2 Condition 9 – Agreement with Department of Defence

Condition 9 of EPBC 2011/6229 says:

> *For the better protection of Commonwealth land, the person taking the action must enter into a written agreement with [the Department of] Defence that specifies the use and ongoing*



Allens is an independent partnership operating in alliance with Linklaters LLP.

*maintenance of Moorebank Avenue. Prior to commencement of the action the person taking the action must provide a copy of that agreement to the Department.*

Your letter dated 11 September 2019 says it appears that the action may have commenced prior to the Department receiving a copy of an agreement with the Department of Defence.

SIMTA and its related entities have entered into a number of agreements that relate to the use and ongoing maintenance of Moorebank Avenue, and which ensure the protection of Commonwealth Land, all of which were entered into prior to commencement of the action.

These agreements adequately provide for the use and ongoing maintenance of Moorebank Avenue for the purposes of Condition 9.

We trust that this addresses any concerns regarding SIMTA's compliance with Condition 9

We describe these agreements below.

## 2.1 Responsibility for Moorebank Avenue

The Department of Defence is no longer responsible for Moorebank Avenue.

The section of Moorebank Avenue that is on Commonwealth land is legally described as Lot 2 in Deposited Plan 1197707. The Commonwealth of Australia is the registered proprietor of Lot 2/DP1197707. The Commonwealth Department of Infrastructure, Regional Development and Cities manages the land on behalf of the Commonwealth.

The Commonwealth of Australia has granted a registered lease of Lot 2/DP1197707 to Moorebank Intermodal Development Investment Nominees Proprietary Limited which in turn has granted a registered sublease to Moorebank Precinct Nominees Proprietary Limited. Copies of these registered instruments are **enclosed**.

## 2.2 SIMTA/Qube's obligations to maintain Moorebank Avenue

On 3 June 2015, Qube RE Services (No 2) Pty Limited entered into a Development and Operations Deed (the ***DOD***) with Moorebank Intermodal Company Limited (***MIC***). MIC is a Commonwealth owned company established to facilitate the development of an intermodal terminal at Moorebank.

The DOD contains confidentiality obligations which preclude SIMTA from providing a copy to the Department.

In summary, during the term of the DOD, Qube RE Services (No 2) Pty Limited is required to maintain and repair Moorebank Avenue to an operational standard that it is better than or at least consistent with:

(a) usual industry practice and standards from time to time;

(b) the operational standard that is from time to time required by law; and

(c) usual industry practice from time to time regarding environmental sustainability and care and, in any case, in accordance with any requirements of the DOD regarding environmental sustainability and care.

## 2.3 Use of Moorebank Avenue

On 24 January 2017, Moorebank Precinct Nominees Proprietary Limited (the sublessee of Lot 2/DP1197707) and Qube RE Services (No 2) Pty Limited entered into an agreement for lease over a parcel of land that included Moorebank Avenue. Under this agreement for lease, Moorebank Precinct Nominees Proprietary Limited granted the following licences to Qube RE Services (No 2) Pty Limited:

(a) a *General Site Licence* permitting Qube RE Services (No 2) Pty Limited to use and occupy Lot 2/DP1197707 to carry out maintenance works on Moorebank Avenue in accordance with the Precinct Master Plan and the provisions of clause 37 of the DOD; and

(b) a *Construction Licence* permitting Qube RE Services (No 2) Pty Limited to use Lot 2/DP1197707 to carry out works on Moorebank Avenue.

The confidentiality obligations in the DOD also preclude SIMTA from providing a copy of the agreement for lease to the Department.

## 3 Condition 14 – Approval of Management Plans

Paragraph (c) of your letter dated 11 September 2019 says that SIMTA has not obtained the Department's approval for a number of management plans. On 18 March 2019, Qube submitted the most recent versions of each of these plans to the Department for approval. Since this time, Qube has diligently pursued these approvals including by promptly responding to any comments made by the Department. We enclose a chronology listing the correspondence between SIMTA's consultants and the Department in respect of these approvals.

We deal with the status of each of those plans in turn.

### 3.1 MPE Stage 1 Rail Access Land Package – Revised Construction Environment Management Plan

On 24 May 2017, the Minister approved revision K of the MPE Stage 1 Rail Access Land Package – Construction Environment Management Plan (the ***RALP CEMP***).

On 18 March 2019, SIMTA submitted revision 5 of the RALP CEMP for the Minister's approval. The Department is currently considering revision 6 of the plan which SIMTA submitted to the Department in response to comments that the Department made in respect of revision 5.

We refer to the following comments on the RALP CEMP on page 11 of the Audit Report:

> *Based on the approved versions of the RALP CEMP and FFMP, the latest versions published on the website and the Requests for Minor Assessments as listed in the RALP CEMP and FFMP Revision Tables, the changes made predominantly related to matters not relevant to the EPBC Approval, other than the fact they alter the construction footprint (or methods) for works carried out on Commonwealth land. As detailed in Figure 2 of the approved and current RALP CEMP, the Project has altered the footprint of works around the rail corridor, including areas known as the Bootland. Upon inspection of the Ecological No-Go Maps presented in Appendix C of both the approved and current RALP FFMPs, the adjustments would not impact on known EPBC listed flora and fauna. In the opinion of the Independent Auditors, the revisions made to the plans would result in equivalent or improved environmental outcomes over time.*

We otherwise repeat our comments in our 11 March 2019 letter in relation to the management plan.

### 3.2 MPE Stage 1 Rail Access Land Package – Revised Flora and Fauna Management Plan

On 24 May 2017, the Minister approved revision J of the Flora and Fauna Management Plan for Moorebank Precinct East State 1 – RALP No 1 (the ***RALP FFMP***).

On 18 March 2019, Qube submitted revision 6 of the RALP Construction Flora and Fauna Management Plan (***CFFMP***) for the Minister's approval. The Department is currently considering revision 7 of the plan which SIMTA submitted to the Department in response to comments that the Department made in respect of revision 6.

We refer to the comments made in the Audit Report in respect of the RALP FFMP which we have quoted in paragraph 3.1 above.

We confirm that the comments we made in respect of the RALP FFMP in our letter dated 11 March 2019 remain valid.

### 3.3 MPE Stage 1 Import Export Terminal – Revised Construction Environment Management Plan

On 24 May 2017, the Minister approved revision 6 of the MPE Stage 1 Import Export Terminal – Construction Environment Management Plan (the ***IMEX CEMP***).

On 18 March 2019, SIMTA submitted revision 11 of the IMEX CEMP for the Minister's approval. The Department is currently considering revision 12 of the plan which SIMTA submitted to the Department in response to comments that the Department made in respect of revision 11.

We refer to the following comments on the IMEX CEMP on page 11 of the Audit Report:

> *Based on the approved version of the IMEX CEMP and FFMP, the latest versions published on the website and the Requests for Minor Assessments listed in the IMEX CEMP and FFMP Revision Tables, the changes made predominantly related to matters not relevant to the EPBC Approval, other than the fact they alter the construction footprint (or methods) for works carried out on Commonwealth land. As detailed in Figure 1 of the approved and current IMEX CEMP, the Project has altered the footprint of works around the eastern and northern extents of the approved project. Upon inspection of Figures 3 and 4 in both the approved and current IMEX FFMPs, the adjustments would not impact on known EPBC listed flora and fauna. In the opinion of the Independent Auditors, the revisions made to the plans would result in equivalent or improved environmental outcomes over time.*

We otherwise repeat our comments in our 11 March 2019 letter in relation to the management plan. .

### 3.4 MPE Stage 1 Import Export Terminal – Revised Flora and Fauna Management Plan

On 24 May 2017, the Minister approved revision 5, dated 11 May 2017, of the Flora and Fauna Management Plan for Moorebank Precinct East State 1 – Package 2 (the ***IMEX FFMP***).

On 18 March 2019, Qube submitted revision 12 of the IMEX Construction Flora and Fauna Management Plan (***CFFMP***) for the Minister's approval. The Department is currently considering revision 13 of the plan which SIMTA submitted to the Department in response to comments that the Department made in respect of revision 12.

We refer to the comments made in the Audit Report in respect of the IMEX FFMP which we have quoted in paragraph 3.3 above. We also confirm that the comments we made in respect of the RALP FFMP in our letter dated 11 March 2019 remain valid.

### 3.5 MPE Stage 2 Warehouse and Distribution Facility – Revised Construction Environment Management Plan

On 19 February 2019, Qube submitted revision 6 of the MPE Stage 2 Construction Environmental Management Plan (***MPE 2 CEMP***) for the Minister's approval. The Department is currently considering this plan.

We refer to the comments on page 9 of the Audit Report in respect of the MPE 2 CEMP:

> *At the time of the audit, there was no evidence (i.e. the actual letter of approval) available to verify that DotEE had in fact granted approval to the MPE Stg 2 CEMP. Based on the status of works on MPE Stg 2 at the time of the audit, it is apparent that the works had commenced without the MPE Stg 2 CEMP having been approved as required by CoA 7. That being said, the mitigation measures in the MPE Stg 2 CEMP and sub-plans are generally consistent*

*with those in the approved MPE Stg 1 CEMP insofar as they relate to those matters protected by the EPBC Act. There is no evidence to suggest that the works undertaken have resulted in impacts on EPBC Act matters beyond those impacts contemplated by EPBC Approval2011/6229.*

As we originally said in our letter dated 11 March 2019, SIMTA/Qube will not commence any works on Commonwealth Land or works that may impact upon EPBC listed flora until the Minister has approved the most current version of the MPE 2 CEMP.

### 3.6 MPE Stage 2 Warehouse and Distribution Facility – Revised Flora and Fauna Management Plan

On 19 February 2019, Qube submitted revision 7 of the MPE Stage 2 Flora and Fauna Management Plan (***MPE 2 FFMP***) for the Minister's approval. The Department is currently considering this plan.

We refer to the comments on page 8 of the Audit Report in respect of the MPE 2 FFMP:

*There was no evidence available at the time of the audit to demonstrate that the MPE Stg 2 FFMP was approved pursuant to CoA 5 (or, alternatively, that no such approval was required). Based on the status of works on MPE Stg 2 it is apparent that native vegetation clearing has occurred across MPE Stg 2. This clearing therefore appears to have occurred without the prior approval of the MPE Stg 2 FFMP, contrary to CoA 5. However, it should be noted that the clearing processes and protocols within the MPE Stg 2 FFMP are consistent with the clearing processes within the approved MPE Stg 1 FFMPs. Additionally, there is no evidence to suggest that the clearing works undertaken have resulted in impacts on EPBC Act protected matters beyond those impacts considered and approved under EPBC Approval 2011/6229.*

Qube will not commence any works on Commonwealth Land or works that may impact upon EPBC listed flora until the Minister has approved the most current version of the MPE 2 FFMP.

We trust that the response set out in this letter sufficiently addresses the questions set out in your letter dated 11 September 2019 and that no further investigative action or other measures are warranted.

Please contact us if you would like to discuss any of the matters referred to in this letter.

Yours sincerely

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# APPENDIX B - DAWE APPROVAL LETTERS FOR CEMP AND OEMP

Australian Government
Department of the Environment and Energy

Mr Steve Ryan
Managing Director
Tactical Group
Level 15, 24 Walker Street
NORTH SYDNEY NSW 2060

Dear Mr Ryan

**Moorebank Precincts West and East (EPBC 2011/6086 & EPBC 2011/6229): Stage 2 Construction and Flora and Fauna Management Plans**

Thank you for submitting for approval a series of documents that constitute construction and flora and fauna management plans for upgrading Moorebank Avenue and constructing warehouse facilities at Moorebank Precinct East.

Officers of the Department have advised me on the plans, and on the requirements of the conditions of approval for EPBC 2011/6299 and EPBC 2011/6086. On this basis, and as a delegate of the Minister for the Environment, I have decided to approve:

- the *Construction Flora and Fauna Management Plan, Moorebank Precinct East Stage 2*, dated 23 August 2019, in accordance with Condition 5 of EPBC Act approval for EPBC 2011/6229;

- the following documents, in accordance with Condition 7 of EPBC Act approval for EPBC 2011/6229;
  - the *Construction Environmental Management Plan, Moorebank Precinct East Stage 2*, dated 30 August 2019;
  - the *Construction Traffic and Access Management Plan – Phase B, Moorebank Precinct East Stage 2*, dated 9 August 2019;
  - the *Construction Noise and Vibration Management Plan, Moorebank Precinct East Stage 2*, dated 6 August 2019;
  - the *Contamination Management Plan, Moorebank Precinct East Site*, dated 26 September 2019;
  - the *Construction Soil and Water Management Plan, Moorebank Precinct East Stage 2*, dated 8 August 2019;
  - the *Construction Air Quality Management Plan, Moorebank Precinct East Stage 2*, dated 20 August 2019; and
  - the *Construction Heritage Management Plan, Moorebank Precinct East Stage 2*, dated 5 August 2019;

- the following documents, in accordance with Conditions 2, 2A, 2B and 5-13 of EPBC Act approval for EPBC 2011/6086;
  - the *Construction Environmental Management Plan, Moorebank Precinct East Stage 2*, dated 30 August 2019;
  - the *Construction Flora and Fauna Management Plan, Moorebank Precinct East Stage 2*, dated 23 August 2019;
  - the *Construction Traffic and Access Management Plan – Phase B, Moorebank Precinct East Stage 2*, dated 9 August 2019;
  - the *Construction Noise and Vibration Management Plan, Moorebank Precinct East Stage 2*, dated 6 August 2019;

- the *Contamination Management Plan, Moorebank Avenue Upgrade Works*, v2.0, dated 25 September 2019;
- the *Construction Soil and Water Management Plan, Moorebank Precinct East Stage 2*, dated 8 August 2019;
- the *Construction Air Quality Management Plan, Moorebank Precinct East Stage 2*, dated 20 August 2019; and
- the *Construction Heritage Management Plan, Moorebank Precinct East Stage 2*, dated 5 August 2019.

Please note that the above conditions of EPBC Act approval specify a period within which the above approved plans must be published on your website.

I note that further Construction Environmental Management Plans will be required for Moorebank Precinct West.

The Department has an active monitoring program which includes monitoring inspections, and desktop document reviews and audits. Please ensure that you maintain accurate records of all activities associated with the conditions of approval, including implementation of the above approved plans, so that they can be made available to the Department on request.

Should you require any further information, please contact Vaughn Cox on (02) 6274 2005 or post.approvals@environment.gov.au.

Yours sincerely

Chris Videroni, Acting Assistant Secretary
Assessments (WA, SA, NT) & Post Approvals Branch

27 September 2019

Cc Mr Dan Blyde, Qube Holdings Limited

Australian Government
Department of the Environment and Energy

Mr Steve Ryan
Managing Director, Tactical Group
Level 15, 24 Walker Street
NORTH SYDNEY NSW 2060

Dear Mr Ryan

**SIMTA Moorebank Intermodal Terminal Facility, Sydney, NSW (EPBC 2011/6229): Operation and Flora and Fauna Management Plans**

Thank you for submitting for approval a series of documents that constitute operation and flora and fauna management plans for Moorebank Precinct East.

Officers of the Department have advised me on the plans, and on the requirements of the conditions of approval for EPBC 2011/6299. On this basis, and as a delegate of the Minister for the Environment, I have decided to approve the *Operation Flora and Fauna Management Plan, Moorebank Precinct East*, dated 2 September 2019, in accordance with Condition 5 of EPBC Act approval for EPBC 2011/6229.

I note that, to address Condition 8 of approval, plans specific to noise and vibration, air quality, traffic and access, community consultation and visual amenity/light spill form part of the *Operation Environmental Management Plan* required in accordance 8 of the approval. I have therefore also decided, as a delegate of the Minister for the Environment, to approve:

- the *Operation Environmental Management Plan, Moorebank Precinct East*, dated 17 September 2019;
- the *Operation Noise and Vibration Management Plan, Moorebank Precinct East*, dated 28 August 2019;
- the *Container Noise Barrier Management Plan, Moorebank Logistics Park – East Precinct,* dated 19 June 2019;
- the *Operation Traffic and Access Management Plan, Moorebank Precinct*, dated 29 August 2019;
- the *Operation Community Consultation Strategy, Moorebank Precinct East Stage 2*, dated 23 May 2019;
- the *Urban Design and Landscape Plan, Moorebank Precinct Stage 1,* dated 29 August 2019; and
- the *Urban Design and Landscape Plan, Moorebank Precinct East Stage 2,* dated 7 June 2019.

as meeting the requirements of Condition 8 of EPBC Act approval for EPBC 2011/6229.

I also note that one operation environmental management plan will replace construction plans for the rail access and land package, import and export terminal and warehousing and distribution components of the project, as those components transition from construction to operation stages.

The above approvals do not represent approval of any operation plans for the purpose of Moorebank Precinct West (EPBC 2011/6086).

Please note that the above conditions of EPBC Act approval specify a period within which the above approved plans must be published on your website.

The Department has an active monitoring program which includes monitoring inspections, and desktop document reviews and audits. Please ensure that you maintain accurate records of all activities associated with the conditions of approval, including implementation of approved plans, so that they can be made available to the Department on request.

Should you require any further information, please contact Vaughn Cox on (02) 6274 2005 or post.approvals@environment.gov.au.

Yours sincerely

Greg Manning, Assistant Secretary
Assessments (WA, SA, NT) & Post Approvals Branch
20 September 2019

Cc Mr Dan Blyde, Qube Holdings Limited

Australian Government

Department of Agriculture, Water and the Environment

Mr Steve Ryan
Managing Director, Tactical Group
Level 15, 124 Walker Street
NORTH SYDNEY NSW 2060

Dear Mr Ryan

**SIMTA Moorebank Intermodal Terminal Facility, Sydney, NSW (EPBC 2011/6229): Revised Operation and Flora and Fauna Management Plans**

Thank you for submitting a series of documents that constitute revised flora and fauna and operation management plans for Moorebank Precinct East.

Officers of the Department have advised me on the revised plans and on the requirements of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) conditions of approval for the above project. On this basis, and as a delegate of the Minister for the Environment, I have decided to approve the *Operational Flora and Fauna Management Plan, Moorebank Logistics Park, East Precinct*, *Rev 8,* dated 27 March 2020, in accordance with Condition 14 of EPBC Act approval for EPBC 2011/6229.

I note that, to address Condition 8 of the approval, plans specific to noise and vibration, air quality, traffic and access, community consultation, and visual amenity/light spill form part of the *Operation Environmental Management Plan*. I have therefore also decided to approve the following revised plans in accordance with Condition 14 of EPBC Act approval for EPBC 2011/6229:

- the *Operational Environmental Management Plan, Moorebank Logistics Park, East Precinct*, *Rev 15,* dated 18 March 2020;
- the *Operational Noise and Vibration Management Plan, Moorebank Logistics Park, East Precinct*, *Rev 12,* dated 27 March 2020;
- the *Container Noise Barrier Management Plan, Moorebank Logistics Park, East Precinct*, *Rev 6,* dated 19 March 2020;
- the *Operational Air Quality Management Plan, Moorebank Logistics Park, East Precinct*, *Rev 11,* dated 27 March 2020;
- the *Operational Traffic and Access Management Plan*, *Moorebank Logistics Park, East Precinct*, Rev 12, dated 26 March 2020; and
- the *Operation Community Communication Strategy, Moorebank Logistics Park, East Precinct*, *Rev 5,* dated 19 March 2020.

I note the *Urban Design and Landscape Plan, Moorebank Precinct Stage 1,* dated 29 August 2019 and the *Urban Design and Landscape Plan, Moorebank Precinct East Stage 2,* dated 7 June 2019 have not been revised. I am satisfied that combined the approved urban design and landscape plans, and the above six approved revised plans meet the requirements of Condition 8 of EPBC Act approval for EPBC 2011/6229.

The approved revised flora and fauna and operation plans must now be implemented in place of the plans approved on 20 September 2019.

Please note the above conditions of EPBC Act approval:

- specify a period within which the above approved revised plans must be published on your website; and

- require that to carry out any activity otherwise than in accordance with any management plan as specified in the conditions, the approval holder must submit to the Department for the Minister's written approval a revised version of that management plan for approval.

The Department has an active monitoring program which includes monitoring inspections, and desktop document reviews and audits. Please ensure that you maintain accurate records of all activities associated with the conditions of approval, including implementation of approved plans, so that they can be made available to the Department on request.

Should you require any further information please contact Vaughn Cox on 0422 369 431 or at postapproval@awe.gov.au.

Yours sincerely

Greg Manning
Assistant Secretary
Assessments (WA, SA, NT), Post Approvals and Policy Branch

29 April 2020

cc Mr Dan Blyde, Qube Holdings Limited

***Note:*** Under s 491 of the *Environment Protection and Biodiversity Conservation Act 1999* it is an offence to knowingly provide false and/or misleading information to a departmental officer.

# APPENDIX C - COMPLIANCE TRACKING – COMMONWEALTH CONDITIONS OF CONSENT

## Moorebank Intermodal Terminal Project - MPE (EPBC 2011/6229)

| Condition No. | Condition | Timing for Compliance | Compliance Status | Evidence / Comments |
|---|---|---|---|---|
| 1 | For the better protection of the *GHFF* , the person taking the action must:<br>a) not clear more than 11 hectares of GHFF foraging habitat;<br>b) engage a suitably qualified expert to undertake a pre-clearance survey(s) to confirm the absence of GHFF roosting camps within the rail easement, no more than 48 hours prior to the clearance of potential GHFF roosting habitat; and<br>c) notify the Department in writing of the results of pre-clearance surveys.<br>If the GHFF is detected roosting on site, all native vegetation clearance activities must halt until the person taking the action has complied with any directions the Minister may wish to issue regarding timing of construction or methods for dispersal of the GHFF. | During construction | Compliant | The assessment documentation for the MPE Stage 1 and MPE Stage 2 developments was developed to ensure that no more than 11 ha of GHFF habitat would be cleared.<br><br>Approximately 9.88ha of GHFF habitat has been cleared on the MPE site to date.<br><br>Pre-clearance surveys have been undertaken by the project ecologist in accordance with Section 5.1 of the MPE Stage 1 (IMEX) Construction Flora and Fauna Management Plan (CFFMP), Section 7.3 of the MPE Stage 1 (RALP) CFFMP and Appendix A of the MPE Stage 2 CFFMP.<br><br>No GHFF have been detected roosting on site prior to or during clearing activities. |
| 2 | For the better protection of the *Macquarie Perch* , the person taking the action must:<br>a) engage a suitably qualified expert to design (or provide input on the design of) all crossings which are proposed to be implemented across Macquarie Perch habitat. Any such crossings must be of a suitable design that provides for the passage requirements of Macquarie Perch; and<br>b) implement all feasible and practicable measures that ensure sedimentation and / or erosion (as a result of the proposed action) do not lead to any further reductions in the water quality, or degradation of, Macquarie Perch habitat. | Prior to the commencement of construction | Compliant | The rail link design report for MPE Stage 1 identifies the requirement to ensure protection of Macquarie Perch and to allow passage in line with this condition. It is noted that the Anzac Creek culvert has been designed to follow the natural shape of the channel and scour protection will be installed at the outlets to minimise erosion.<br><br>A single causeway design was developed for instream works within Georges River, as detailed in the MPE Stage 1 project's design report for Georges River and the Project Specific Procedure for Georges River. The design maintains an 18 metre channel between the causeway and western river bank, so as to permit connectivity and passage for Macquarie Perch. The causeway has since been removed.<br><br>The requirements of this condition are also included in the MPE Stage 1 (RALP) CFFMP as approved by DotEE on 24 May 2017 and the MPE Stage 1 (RALP) Construction Soil and Water Management Plan (CSWMP) as approved by DPIE on 11 May 2017..<br><br>Not applicable to the IMEX scope of works under MPE Stage 1 or the MPE Stage 2 scope of works. Macquarie Perch has not been found within the MPE site boundary and there are no aquatic or riparian habitats are present at the IMEX or MPE Stage 2 site.<br><br>Erosion and sediment control during construction is managed by the approved MPE Stage 1 (IMEX) CSWMP and approved MPW Stage 2 CSWMP in order to minimise impacts to the surrounding environment, including nearby Macquarie Perch habitat. |
| 3 | For the better protection of *Hibbertia sp . Bankstown* , the person taking the action must engage a *suitably qualified expert* to undertake a targeted search for individuals of *Hibbertia sp. Bankstown* within all areas of potential habitat during the species' flowering period. | Prior to the commencement of construction | Compliant | The MPE Stage 1 Biodiversity Assessment Report (BAR), prepared by Hyder Consulting (2015) and the revised Moorebank Project East Stage 1 Biodiversity Assessment Report, prepared by Arcadis (dated 3 October 2017) included targeted surveys for *Hibbertia* sp. Bankstown, which did not record any results in the study area.<br><br>The revised Moorebank Precinct East Stage 2 Biodiversity Assessment Report (BAR), prepared by Arcadis (dated 16 November 2017) states that the presence of *Hibbertia* sp. Bankstown is unlikely to occur within the project footprint and no further action was required.<br><br>The BAR and all targeted surveys were prepared and undertaken by suitably qualified ecologists from Arcadis. |

## Moorebank Intermodal Terminal Project - MPE (EPBC 2011/6229)

| Condition No. | Condition | Timing for Compliance | Compliance Status | Evidence / Comments |
|---|---|---|---|---|
| 4 | For the better protection of *Bynoe's Wattle* , the person taking the action must engage a *suitably qualified expert* to undertake a field habitat assessment that targets the ecological requirements of *Bynoe's Wattle* , in all areas of Castlereagh Scribbly Gum Woodland likely to be cleared as a result of the proposed action. If the assessment determines there is potential for the species to occur on site, then a *suitably qualified expert* must undertake a targeted search for individuals of *Bynoe's Wattle* within all areas of potential habitat identified by the habitat assessment during the species' flowering period. | Prior to the commencement of construction | Compliant | The MPE Stage 1 Biodiversity Assessment Report (BAR), prepared by Hyder Consulting (2015) and the revised Moorebank Project East Stage 1 Biodiversity Assessment Report, prepared by Arcadis (dated 3 October 2017) included targeted surveys for Bynoe's Wattle, which did not record any results in the study area.<br><br>The revised Moorebank Precinct East Stage 2 Biodiversity Assessment Report (BAR), prepared by Arcadis (dated 16 November 2017) included targeted surveys for Bynoe's Wattle. The species was not found within MPE stage 2 site during targeted surveys; however populations of the species were recorded to the south and east.<br><br>The BAR and all targeted surveys were prepared and undertaken by suitably qualified ecologists from Arcadis. |
| 5 | For the better protection of *EPBC listed flora* & the environment on Commonwealth land, the person taking the action must engage a *suitably qualified expert* to prepare a Flora and Fauna Management Plan (FFMP) for the approval of *the Minister* . The FFMP must include (but need not be limited to):<br>a) details on the timing of native vegetation clearance works;<br>b) detailed maps of the rail link easement and construction zone showing:<br>i. permanent infrastructure and temporary works;<br>ii. no-go areas; and<br>iii. physical barriers used for the protection of native vegetation on Commonwealth land, and of EPBC Act listed Nodding Geebung and Small-flower Grevillea.<br>c) measures to minimise the extent of native vegetation clearing upon Commonwealth land and the clearing of Nodding Geebung and Small-flower Grevillea;<br>d) provisions to ensure no more than 17 individuals of Nodding Geebung and 634 stems of Small-flower Grevillea are cleared;<br>e) the results of targeted surveys for Hibbertia sp. Bankstown and Bynoe's Wattle (including the number of individuals recorded) and what measures will be implemented to avoid, mitigate and manage impacts to these species, if individuals are found on site;<br>f) measures which allow terrestrial fauna to disperse naturally ahead of clearing activities, and minimise the risk of injury to individuals<br>g) actions to maintain or enhance the long-term viability of native vegetation adjoining the rail easement in particular, adjoining populations of Nodding Geebung and Small-flower Grevillea;<br>h) measures to safeguard flora and fauna from the threat of weeds, fire, pathogens and unauthorised access, including (but not limited to) the commitments outlined in section 7.4.1 of the EIS (and summarised at Annexure A);<br>i) ongoing monitoring to inform the adaptive management of native vegetation adjoining the rail easement.<br>Native vegetation clearance must not occur until the FFMP has been approved. The FFMP must be implemented once approved | Prior to the commencement of construction | Compliant | The MPE Stage 1 (IMEX) CFFMP and MPE Stage 1 (RALP) CFFMP were prepared by suitably qualified experts and approved by a delegate of the Minister on 24 May 2017.<br><br>The MPE Stage 2 CFFMP) (dated 23 August 2019) was prepared by suitably qualified experts and approved by DotEE on 27 September 2019 in accordance with this condition.<br><br>The Moorebank Precinct East Operational Flora and Fauna Management Plan (dated 2 September 2019) was prepared by suitably qualified experts and approved by DotEE on 20 September 2019 in accordance with this condition. |
| 6 | For the better protection of *Nodding Geebung, Small-flower Grevillea* (and potentially, *Hibbertia sp. Bankstown* and *Bynoe's Wattle* pending the outcome of 3 and 4) the person taking the action must engage a suitably qualified expert to prepare a Threatened Flora Offset Management Plan (TFOMP) (or plans) for the approval of the Minister. The TFOMP must include (but need not be limited to):<br>a) details of a direct offset that satisfies the requirements of the Department's offset policy, in accordance with the offset user guide (including timeframes for the delivery or acquisition of the direct offset);<br>b) map(s) and shapefiles that identify the location and boundaries of the direct offset;<br>c) details of the management actions and performance objectives which will maintain and enhance the Nodding Geebung and Small-flower Grevillea habitat and/or population covered by the TFOMP (including the duration, intensity, and timing of management actions);<br>d) an assessment of the baseline population and distribution for Nodding Geebung and Small-flower Grevillea within the direct offset, including: i. the number of plants protected and their location; and ii. plant and habitat condition.<br>e) measures for regular monitoring of the status of individuals of Nodding Geebung and Small-flower Grevillea and their habitat as measured against the baseline population and distribution, including:<br>i. fluctuations in population size and distribution; and<br>ii. response to disturbances and/or management actions.<br>f) provisions to revise the approved TFOMP in response to monitoring associated with condition 6(e);<br>Native vegetation clearance must not occur until the TFOMP has been approved. The TFOMP must be implemented once approved.<br>Should the action result in, or be likely to result in, residual impacts to Hibbertia sp. Bankstown or Bynoe's Wattle (as determined by the Minister), the TFOMP must also demonstrate how it meets the standards described in (a) to (f), for these two species. | Prior to the commencement of construction | Compliant | The TFOMP was prepared by suitably qualified experts and approved by DotEE on 29 August 2017. |

## Moorebank Intermodal Terminal Project - MPE (EPBC 2011/6229)

| Condition No. | Condition | Timing for Compliance | Compliance Status | Evidence / Comments |
|---|---|---|---|---|
| 7 | For the better protection of Commonwealth land, the person taking the action must engage a *suitably qualified expert(s)* to prepare a Construction Environment Management Plan (CEMP), for the approval of *the Minister* . The CEMP must include in relation to construction of the proposed facility:<br>a) details on the timing of construction works (accompanied by current and detailed maps);<br>b) identification and quantification of all potential impacts associated with noise, vibration, air quality, traffic, light spill, hydrological changes, contamination, and indigenous heritage (including cumulative impacts associated with the *DoF* 's proposed intermodal) upon Commonwealth land. Consideration must be given to people and communities at *SME, DNSDC* , Defence housing, and the environment more generally in neighbouring bushland areas. Of note, the air quality assessment must quantify all emissions arising from air pollutant sources for which there are established national air quality standards;<br>c) the results of further investigations with regard to land contamination and indigenous heritage impacts (specifically, *PADs* two and three). If adverse impacts are identified, details on how such matters will be managed / mitigated must also be provided. Evidence of ongoing consultation with *RAPs* regarding further investigations for indigenous heritage objects/places must be provided;<br>d) refined details (including implementation timeframes) for the mitigation measures outlined in the *EIS* (sections 7.4.2, 7.4.3, 7.4.6, 7.4.7, 7.4.8 and 7.4.9) and summarised at Annexure A;<br>e) a commitment to ensure no lights are installed above the height of 40 metres or, the maximum approved height of the intermodal warehouse buildings (whichever is less);<br>f) identification of the trigger values and criteria for all matters mentioned in condition 7(b) (excluding light spill, land contamination and indigenous heritage) that will be adopted for monitoring and managing potential impacts to Commonwealth land;<br>g) details of a comprehensive monitoring program (including locations, frequency and duration) for:<br>i. validating the anticipated impacts associated with condition 7(b); and<br>ii. determining the effectiveness of proposed mitigation/management measures;<br>h) provisions to revise the approved CEMP in response to monitoring associated with condition 7(g) including, details of response / contingency mechanisms to address any exceedances of the relevant trigger values;<br>i) evidence of consultation with *Defence* regarding the adequacy of proposed mitigation measures in particular, those measures to mitigate potential light spill impacts upon residential dwellings within *SME* outside of *standard construction hours* ; and<br>j) details of a complaints handling procedure;<br>*Commencement of the action* may not occur until the CEMP has been approved. The CEMP must be implemented once approved. | Prior to the commencement of construction | Compliant | The MPE Stage 1 (IMEX) CEMP and MPE Stage 1 (RALP) CEMP were prepared by suitably qualified persons in accordance with the condition and approved by DotEE on 24 May 2017.<br><br>The following MPE Stage 2 construction management plans were approved by DotEE on 27 September 2019 as meeting the requirements of this condition.<br><br>MPE Stage 2 Construction Environmental Management Plan (dated 30 August 2019)<br>MPE Stage 2 Construction Traffic and Access Management Plan - Phase B (dated 9 August 2019)<br>MPE Stage 2 Construction Noise and Vibration Management Plan (dated 6 August 2019)<br>MPE Stage 2 Contamination Management Plan (dated 26 September 2019)<br>MPE Stage 2 Construction Soil and Water Management Plan (dated 8 August 2019)<br>MPE Stage 2 Construction Air Quality Management Plan (dated 20 August 2019)<br>MPE Stage 2 Construction Heritage Management Plan (dated 5 August 2019) |
| 8 | For the better protection of Commonwealth land, the person taking the action must engage a *suitably qualified expert(s)* to prepare an Operation Environment Management Plan (OEMP) for the approval of *the Minister* . The OEMP must include in relation to operation of the proposed facility:<br>a) identification and quantification of all potential impacts associated with noise, vibration, air quality, traffic and light spill (including cumulative impacts associated with the DoF's proposed intermodal) upon Commonwealth land. Consideration must be given to people and communities at *SME* , *DNSDC* , Defence housing, and the environment more generally in neighbouring bushland areas. Of note, the air quality assessment must quantify all emissions arising from air pollutant sources for which there are established national air quality standards;<br>b) refined details (including implementation timeframes) for the mitigation measures outlined in the EIS (sections 7.4.2, 7.4.6, 7.4.7, 7.4.8 and 7.4.9) and summarised at Annexure A;<br>c) refined details of how heavy vehicles entering and exiting the site will be processed, including information on access and circulation both into, and within, the intermodal facility grounds;<br>d) measures to ensure no heavy vehicles entering or exiting the intermodal facility park, or wait, on Moorebank Avenue;<br>e) identification of the trigger values and criteria for all matters mentioned in condition 8(b) (excluding light spill) that will be adopted for monitoring and managing potential impacts to those Commonwealth land;<br>f) details of a comprehensive monitoring program (including locations, frequency and duration) for: i. validating the anticipated impacts associated with condition 8(b); and ii. determining the effectiveness of mitigation/management measures (including the success of public transport incentives);<br>g) provisions to revise the approved OEMP in response to monitoring associated with condition 8(f) including, details of response / contingency mechanisms to address any exceedances of the relevant trigger values;<br>h) evidence of consultation with Defence regarding the adequacy of proposed mitigation measures;<br>i) details of a complaints handling procedure;<br>Commencement of operations may not occur until the OEMP has been approved. The OEMP must be implemented once approved. | Prior to the commencement of operation | Compliant | The following operational management plans for the Moorebank Precnicnt East site were approved by DotEE on 20 September 2019 as meeting the requirements of this condition.<br><br>Moorebank Precinct East Operation Environmental Management Plan (dated 17 September 2019)<br>Moorebank Precinct East Operation Noise and Vibration Management Plan (dated 28 August 2019)<br>Moorebank Precinct East Container Noise Barrier Management Plan (dated 19 June 2019)<br>Moorebnak Precinct East Operation Traffic and Access Management Plan(dated 29 August 2019)<br>Moorebank Precicnt East Stage 2 Operation Community Consultation Strategy (dated 23 May 2019)<br>Moorebank Precinct East Stage 1 Urban Design and Landscape Plan (dated 29 August 2019)<br>Moorebank Precinct East Stage 2Urban Design and Landscape Plan (dated 7 June 2019) |

## Moorebank Intermodal Terminal Project - MPE (EPBC 2011/6229)

| Condition No. | Condition | Timing for Compliance | Compliance Status | Evidence / Comments |
|---|---|---|---|---|
| 9 | For the better protection of Commonwealth land, the person taking the action must enter into a written agreement with Defence that specifies the use and ongoing maintenance of Moorebank Avenue. Prior to commencement of the action the person taking the action must provide a copy of that agreement to the Department. | Prior to the commencement of operation | Compliant | At the execution of Financial Close between the Moorebank Intermodal Company and Qube on 25 January 2017, Moorebank Ave (Lot 2 DP1197707) was transferred within the Commonwealth from Defence to MIC by way of a lease with, and Qube has a 99 year lease with MIC under the Development and Operations Deed from the date of financial close.<br><br>This agreement was provided to DotEE (via email) on 7 July 2017. |
| 10 | Within one month after the commencement of the action, the person taking the action must advise the Department in writing of the actual date of commencement. | Within one month of commencing construction | Compliant | DotEE was notified (via email) of the commencement of construction on 22 July 2017. |
| 11 | The person taking the action must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval, including measures taken to implement any management plan, strategy, or agreement required by this approval, and make them available upon request to the Department. Such records may be subject to audit by the Department or an independent auditor in accordance with section 458 of the EPBC Act, or used to verify compliance with the conditions of approval. Summaries of audits will be posted on the Department's website. The results of audits may also be publicised through the general media. | Throughout design, construction and operation | Compliant | Noted. Compliance with this condition is affirmed in the Independent Audit Report prepared by Wolfpeak (dated 7 July 2019) and this compliance report. |
| 12 | Within three months of every 12 month anniversary of the commencement of the action, the person taking the action must publish a report on their website addressing compliance with each of the conditions of this approval, including implementation of any management plans or agreements as specified in the conditions. Documentary evidence providing proof of the date of publication and non-compliance with any of the conditions of this approval must be provided to the Department at the same time as the compliance report is published. | Within three months of every 12 month anniversary of the commencement of construction | Compliant | Noted.<br><br>The Moorebank Intermodal Terminal Facility Commonwealth Compliance Report (23 June 2017 - 22 June 2018) (dated 21 August 2018) was provided to DotEE . This report is currently available on the SIMTA website.<br><br>The Moorebank Intermodal Terminal Facility Commonwealth Compliance Report (23 June 2018 - 22 June 2019) (dated 5 September 2019) was provided to DotEE. This report is currently available on the SIMTA website. |
| 13 | Upon the direction of the Minister, the person taking the action must ensure that an independent audit of compliance with the conditions of approval is conducted and a report submitted to the Minister. The independent auditor must be approved by the Minister prior to the commencement of the audit. Audit criteria must be agreed to by the Minister and the audit report must address the criteria to the satisfaction of the Minister. | Prior to commencement of construction | Compliant | On 3 May 2019 Sydney Intermodal Terminal Alliance (SIMTA) was directed by the Department of Environment and Energy (DotEE) to undertake an Independent Audit of conditions attached to EPBC 2011/6229.<br><br>The Independent Audit was completed by Wolfpeak and the Independent Audit Report was issued on 7 July 2019.<br><br>DotEE reviewed the Independent Audit Report and SIMTA received a Formal Warning letter from DotEE (dated 29 October 2019). |
| 14 | If the person taking the action wishes to carry out any activity otherwise than in accordance with any management plan specified in the conditions, the person taking the action must submit to the Department for the Minister's written approval a revised version of that management plan. The varied activity shall not commence until the Minister has approved the varied management plan in writing. The Minister will not approve a varied management plan unless the revised management plan would result in an equivalent or improved environmental outcome over time. If the Minister approves the revised management plan, then that management plan must be implemented in place of the management plan originally approved. | During construction | Compliant | The activity continues to be undertaken in accordance with the approved management plans. |
| 15 | If the Minister believes that it is necessary or convenient for the better protection of Listed Threatened species or the environment on Commonwealth land to do so, the Minister may request that the person taking the action make specified revisions to any management plan, as specified in the conditions and submit the revised management plan for the Minister's written approval. The person taking the action must comply with any such request. The revised approved management plan must be implemented. Unless the Minister has approved the revised management plan, then the person taking the action must continue to implement the management plan originally approved, as specified in the conditions. | During construction | Not applicable | Noted. No such request was received during the reporting period. |
| 16 | If, at any time after five years from the date of this approval, the person taking the action has not substantially commenced the action, then the person taking the action must not substantially commence the action without the written agreement of the Minister. | Prior to 6 March 2019 | Compliant | Noted. Constuction under the approved action commenced on 22 June 2017. |
| 17 | Unless otherwise agreed to in writing by the Minister, the person taking the action must publish all management plans referred to in these conditions of approval on their website. Each management plan must be published on the website within one month of being approved. | Within one month of management plan approval | Compliant | Approved management plans have been published on the website. |