

Moorebank Precinct East Stage 2 – MOD 3

Response to Submissions -
(SSD 7628 Mod 3)



SIMTA



SYDNEY INTERMODAL TERMINAL ALLIANCE

Part 4, Division 4.7, State Significant
Development

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Sydney Intermodal Terminal Alliance

Moorebank Precinct East Stage 2 Mod 3 Response to Submissions Report –SSD 7628 Mod 3

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Acronyms, Key Terms and Definitions

Term	Description
DOD	Development and Operations Deed
DPiE	Department of Planning, Industry and Environment
EIS	Environmental Impact Statement
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Reg	<i>Environmental Planning and Assessment Regulation 2000</i>
IMT	Intermodal freight terminal facility
IMEX	Import Export freight facility
LCC	Liverpool City Council
Liverpool LEP	<i>Liverpool Local Environmental Plan 2008</i>
MARW	Moorebank Avenue Realignment Works
MIC	Moorebank Intermodal Company
Moorebank Logistics Park	The Moorebank Precinct
Moorebank Precinct	Includes MPE Project and MPW Project
MPE Project	The SIMTA Moorebank Intermodal Facility at Moorebank, as approved by the concept plan (MP_10_0913)
MPE Site	Includes the Moorebank Precinct East Site and the rail corridor i.e. the entire site area which was approved under the concept plan approval
MPW Site	The former School of Military Engineering site to the immediate west of the MPE Site, across Moorebank Avenue i.e. the entire site area which was approved under the concept plan approval
RMS	Roads and Maritime Services (now TfNSW)
RtS	Response to Submissions
SEARs	Secretary's Environmental Assessment Requirements
SIMTA	Sydney Intermodal Terminal Alliance
SSD	State significant development
SSFL	Southern Sydney Freight Line
TEC	Threatened Ecological Communities
TEU	Twenty-foot equivalent unit or a standard shipping container
TfNSW	Transport for NSW (formally RMS)
VPA	Voluntary Planning Agreement

1. Introduction

Sydney Intermodal Terminal Alliance (SIMTA) (the 'Proponent') are seeking approval to modify the State significant development consent SSD 7628 for the approved second stage of development of the Moorebank Precinct East (MPE) Site. The Modification (SSD 7628 Mod 3) proposed two changes to the MPE SSD 7628 consent:

1. Subdivision: enable subdivision of two additional lots (creating four lots) as part of the approved subdivision of the MPE Site, to facilitate the ongoing management and functionality of the MPE Site. Included as part of this Modification request was a Clause 4.6 request, seeking exception to the minimum lot size standards (Clause 4.1) of the *Liverpool Local Environmental Plan (LEP) 2008*, as amending the approved MPE subdivision layout will also involve creation of lots that are less than the existing 120 ha minimum requirement.
2. Compliance reporting: change the frequency of construction compliance reporting required by condition C21 (c)(ii) from quarterly to six-monthly. This would align MPE Stage 2 compliance reporting requirements with MPE Stage 1 (SSD 6766) and MPW Stage 1 (SSD 5066), and with the *Compliance Reporting: Post Approval Requirements*, issued by DPE (June, 2018).

The Modification application was lodged with the NSW Department of Planning, Industry and Environment (DPIE) 26 June 2020 for approval under Part 4, Division 4.7 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The Modification was placed on public exhibition for 14 days (8 July to 21 July 2020) and relevant stakeholders were invited to respond. Five submissions were received by DPIE:

- Environment Protection Authority (EPA)
- NSW DPIE - Biodiversity and Conservation Division
- Liverpool City Council (LCC)
- Transport for NSW (TfNSW)
- Endeavour Energy (EE)

EPA, NSW DPIE (Biodiversity and Conservation Division) and LCC all had no comment on the Modification.

TfNSW have raised a number of concerns and have requested additional information to allow for full assessment of the proposed Modification. Endeavour Energy raised no objection to the application, but have made a few recommendations and comments. Section 2 of this report provides additional information and responses to these two submissions.

1.1 Purpose of this Report

This Response to Submissions (RtS) report has been prepared, in accordance with direction from DPIE, by Aspect Environmental on behalf of SIMTA to respond to concerns and comments raised by TfNSW. Further clarification and justification for the proposed Modification is provided in this report in accordance with EP&A Act Clause 4.39 as a response to satisfy issues raised by submissions.

An analysis of submissions and responses are provided in Sections 2.

1.2 Modification Overview

Subdivision

The proposed Modification seeks the creation of four additional lots, as part of the subdivision of two lots within the MPE Site.

Lot 1 DP 825352 (being the RailCorp wedge land to the south of the MPE Site between Moorebank Ave, the Boot Land and the East Hills passenger rail line) shall be subdivided into two lots:

- Lot 44 DP 825352: the rail corridor through the RailCorp wedge-land
- Lot 43 DP 825352: the residual RailCorp wedge-land.

Similarly, Lot 4 DP 1197707 (the Boot Land) is to be subdivided into two lots:

- Lot 42 DP 1197707: the rail corridor through the Boot Land, currently described as Easement 'G' in the approved subdivision plan
- Lot 41 DP 1197707: the residual Boot Land site, to become a biodiversity lot as per the DOD.

Accordingly, the MPE subdivision would comprise the following subdivided lots, described in Table 1 and shown in Figure 1. The proposed additional lots are shown in bold underlined.

In order to effect the above described subdivision layout, a Clause 4.6 variation is required. Approval from NSW DPIE was therefore sought to vary the minimum lot size development standard that applies under the Liverpool City Council LEP, thereby permitting subdivision of the Boot Land, as described, to take place.

Compliance

The Proposed Modification also seeks to amend the compliance monitoring and tracking requirements of SSD 7628 by modifying the frequency of construction compliance reporting from quarterly to 6-monthly.

Modifying construction compliance reporting from quarterly to 6-monthly would bring SSD 7628 in line with MPE Stage 1 (SSD 6766), MPW Stage 1 (SSD 5066) and MPW Stage 2 (SSD 7709) consent requirements, which require compliance reporting to be undertaken 6-monthly. Amending this condition would provide for consistent compliance monitoring requirements across the Precinct as a whole and enable consolidation of compliance reporting for the Precinct in the future.

Table 1 MPE subdivision lots – dimensions and description

Lot No.	DP	Size (ha)	Location Description	Ownership/Responsibility
<u>41</u>	<u>1197707</u>	<u>99.09</u>	<u>Residual Boot Land lot</u>	<u>Commonwealth</u>
<u>42</u>	<u>1197707</u>	<u>0.90</u>	<u>The rail corridor through the Boot Land (currently known as Easement G on approved subdivision plans)</u>	Tenant/Operator
<u>43</u>	<u>823352</u>	<u>3.77</u>	<u>The residual RailCorp wedge-land south of Boot Land and MPE Site</u>	<u>RailCorp</u>
<u>44</u>	<u>823352</u>	<u>15 m wide corridor</u> <u>0.25</u>	<u>The rail corridor through the RailCorp wedge-land south of Boot Land and MPE Site</u>	Tenant/Operator
21	1048263	12.72	North-eastern corner of the Proposal Site (now registered as 21/1253673)	Tenant/Operator
22	1048263	18.72	Central portion of the Proposal site, excluding land within the Stage 1 IMT facility (now registered as 22/1253673)	Tenant/Operator
23	1048263	20.90	Southern portion of the Proposal site, excluding land within the Stage 1 IMT facility (now registered as 23/1253673)	Tenant/Operator
12	1048263	6.58	North-western corner of the Proposal site (denoted on plan as 'Target Exclusion Area'), resulting from the subdivision of Lot 24. (now registered as 12/1251885)	Tenant/Operator
13	1048263	4.75	North-western corner of the Proposal site, resulting from the subdivision of Lot 24. (now registered as 13/1251885)	Tenant/Operator
26	1048263	19.24	South-western portion of the site, comprising the IMT facility (Terminal Lot, formerly Lot 25) (now registered as 26/1253673)	Tenant/Operator

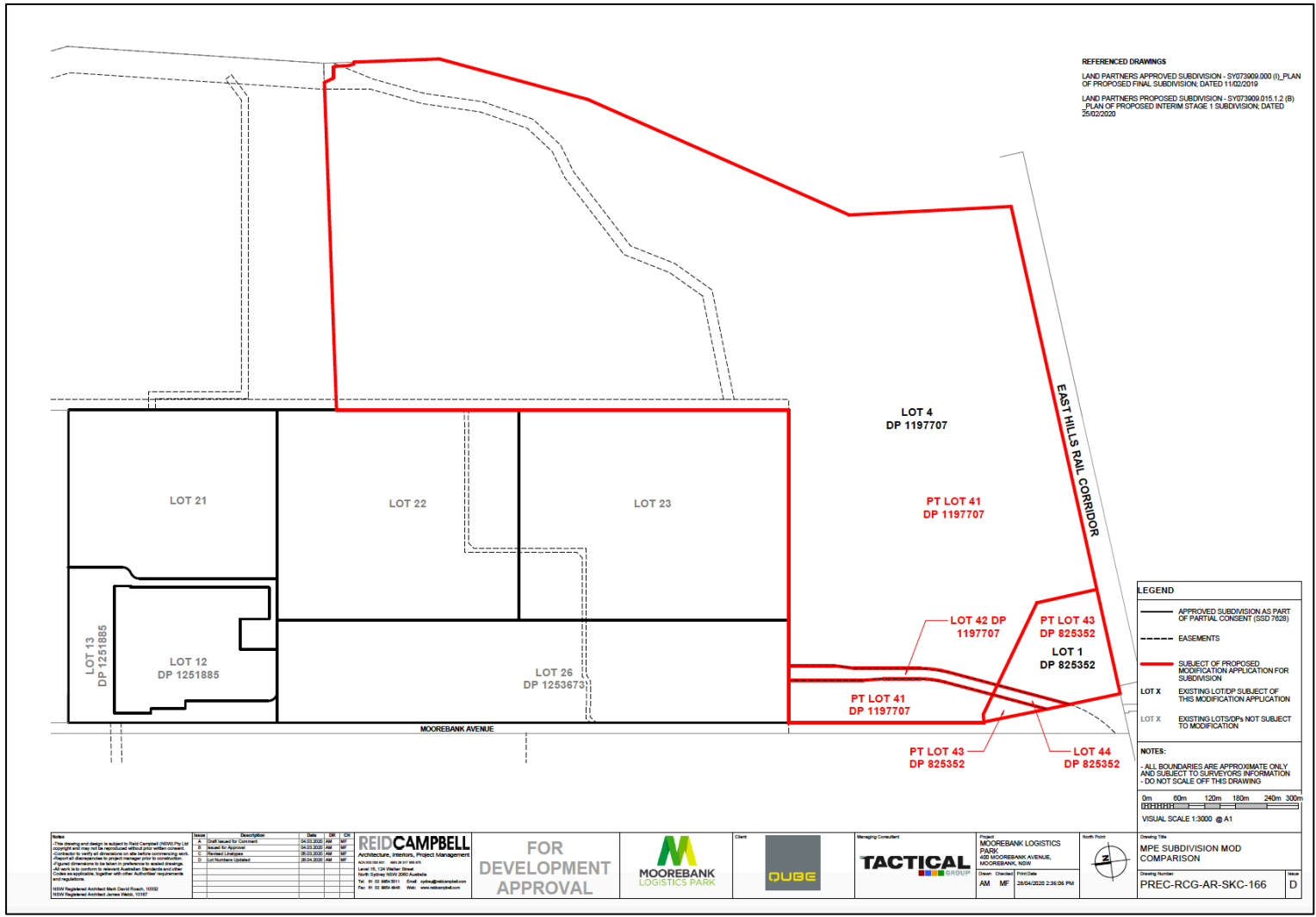


Figure 1: Proposed Modification – Additional Proposed Lots (shown in red)

2. Response to Submissions

2.1 Transport for NSW

TfNSW provided a formal letter of submission (dated 20 July 2020) regarding the Modification. A summary of the comments, and the Proponents response, is provided below.

1. *TfNSW is concerned that the subdivision of Lot 1 DP825352 and Lot 4 DP1197707 will complicate the delivery of the agreed developer contributions set out in the VPA between TfNSW and the Proponent, by creating more lots and more lot owners.*

The purpose of the subdivision is to formalise the management for what is currently an easement (Easement 'G') across Lot 1 DP825352 and Lot 4 DP1197707. As outlined in Table 1, the owner of the newly created lots (the proposed 15m wide rail corridor lots) will be SIMTA, while the residual lots will continue to be owned by RailCorp and the Commonwealth (Lot 1 and Lot 4 respectively).

Although creating more lots, the proposed Modification does not create more lot owners, as in the absence of the Modification, SIMTA (i.e. Trust Company Limited) would remain the 'owner' of Easement G. The inclusion of these newly created lots will have no implications, and will not complicate the delivery of the agreed developer contributions set out in Schedule 3 of the VPA between the Proponent and TfNSW.

The monetary contribution for 'regional road upgrade works' (Item 1 in the VPA) will not be impacted by the proposed subdivision. Item 2 requires the 'Works in Kind and Dedication' of either the MARW or Moorebank Avenue South Upgrade, by the Proponent - which again will not be impacted by the proposed Modification.

No information was provided regarding the potential impact of the proposed Modification on the Moorebank Avenue Realignment proposal. How has the potential impacts of the proposed Modification on the Moorebank Avenue Realignment proposal been assessed.

The Proposed Modification has no impacts on the proposed Moorebank Avenue Realignment (MARW), as:

- No physical works are proposed.
- The subdivision aims to provide certainty in terms of land ownership and management responsibilities in respect of the already approved dedicated rail access corridor. This will facilitate management and operation of MPE and in particular the Terminal lot as sought by the MPE Concept Approval (MP10_1093) future assessment requirements for subdivision. This arrangement is preferred over having an easement as it will provide clear management responsibility for respective lots. This is likely to have beneficial impacts on MARW throughout the construction and operational phase.

- The proposed MARW alignment enters and exits the Boot Land (Lot 4 DP1197707) without conflicting with the proposed rail corridor lot (Lot 42 in Table 1 and currently Easement G). The impact on this lot is unchanged with or without the proposed Modification.
- The proposed MARW alignment enters the Railcorp site (Lot 1 DP825352) without conflicting with the proposed rail corridor (Lot 44 in Table 1) and joins Moorebank Avenue north of the East Hills Railway. This junction is subject to detailed design and may encroach on proposed Lot 44. This encroachment will not impact on future development of the MARW, nor will it conflict with Lot 44 use as a rail corridor for effective management and operation of the MPE IMEX Terminal lot.

Figure 2 provides a plan of the proposed MARW alignment with respect to existing lot boundaries.

Based on the above, no further impact assessment is required.

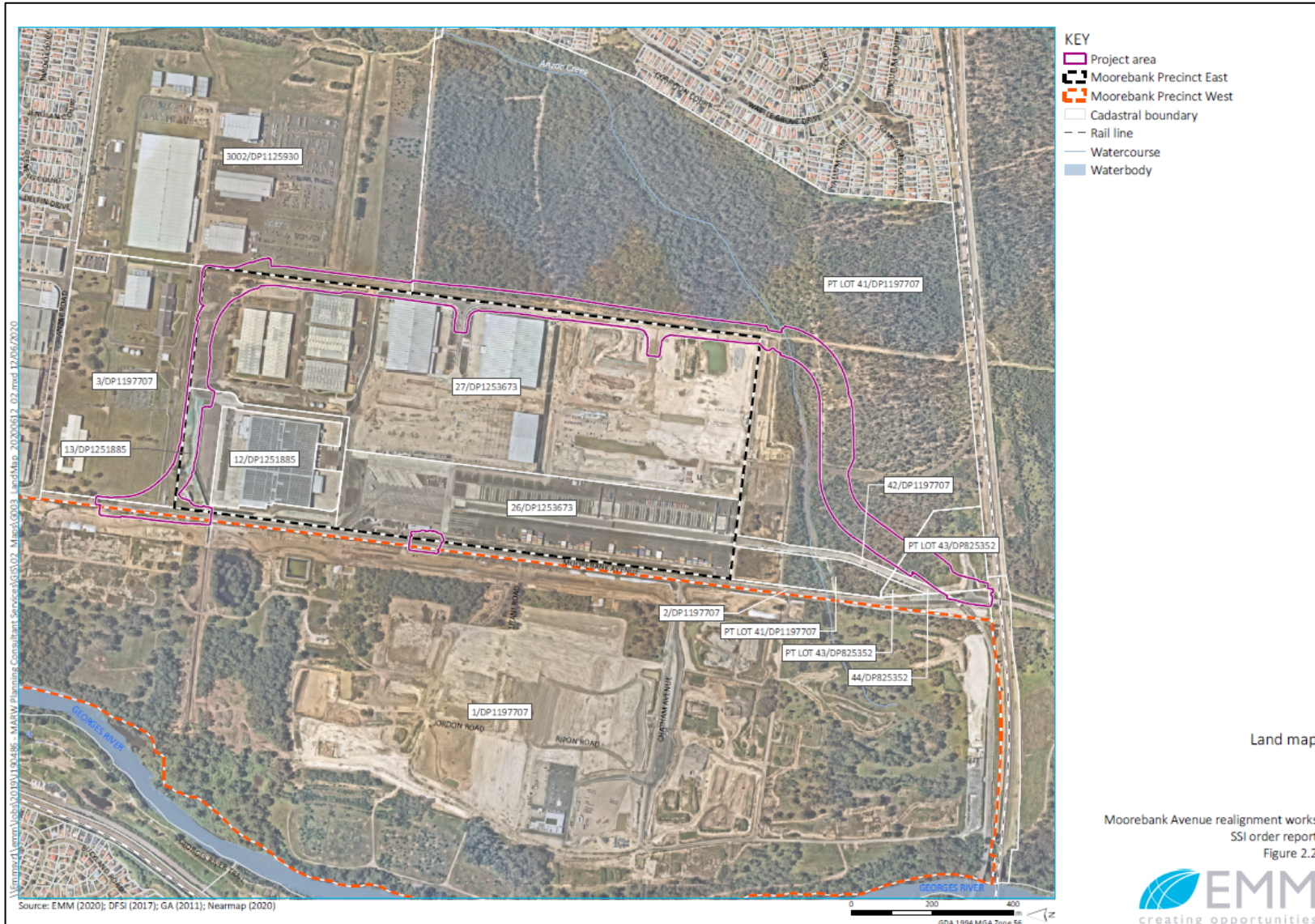


Figure 2: MARW alignment in relation to MPE subdivision lot boundaries (Source: EMM, 2020)

2. *No information provided regarding the potential impacts of the proposed Modification on the Cambridge Avenue upgrade proposal. The Modification should not preclude TfNSW ability to connect the proposed Cambridge Avenue upgrade to either the MARW, or if that does not proceed, the Moorebank Avenue Upgrade. How have the potential impacts of the proposed Modification on the conjunction of the MARW or Moorebank Avenue Upgrade and the Cambridge Avenue upgrade been assessed.*

Based on review of available information on the Moorebank Intermodal Terminal Road Access (MITRA) Strategy, the concept design indicates that the Cambridge Avenue upgrade would join Moorebank Avenue north of the East Hills Rail Corridor, in the approximate location of the junction with MARW (Figure 3).

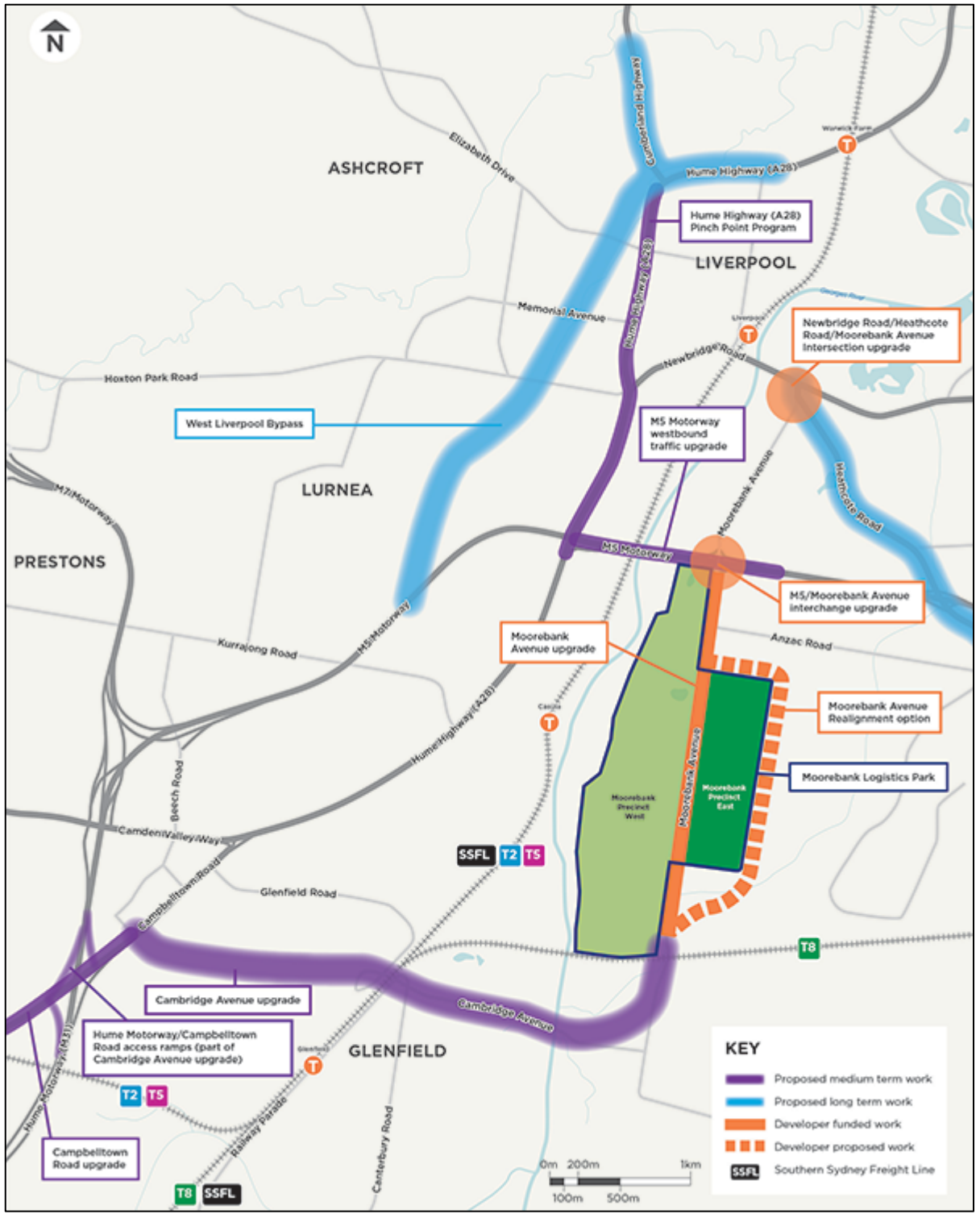


Figure 3 : MITRA Strategy Concept Plan (Source: TfNSW <https://www.rms.nsw.gov.au/projects/cambridge-ave-glenfield-upgrade/index.html>, 2020)

The Modification is for changes to the MPE subdivision layout and compliance reporting frequency only. The Cambridge Avenue upgrade works appear to be outside the footprint of the proposed subdivision and so would not have any implications on these works.

The subdivision of Lot 1 DP825352 and Lot 4 DP1197707 will result in the change of ownership of the resultant rail corridor lots (i.e. Lot 42 and 44 in Table 1), however, this will not preclude TfNSW's ability to connect Cambridge Avenue to MARW (or the Moorebank Avenue upgrade, should MARW not proceed). Lot ownership of the residual lots will remain unchanged.

MARW (or Moorebank Avenue upgrade) and the forecast Cambridge Avenue upgrade would be designed to accommodate the existing rail infrastructure into the MPE Terminal lot without compromise.

The recently released comments from TfNSW on the draft SEARs for the MARW (dated 14 July, 2020) require the Proponent to consult with Sydney Trains and Railcorp on the MARW design and any affectation/utilisation of land. This process would continue to apply despite the subdivision and change in ownership of this land to the Proponent, and likely streamline the process. The presence of the rail infrastructure, nor the creation of a dedicated rail access allotment, would preclude proposed road upgrade works. On the basis of this assessment no further impact assessment is required.

2.2 Endeavour Energy

In correspondence to DPIE, EE have noted:

- No easements occur on the subject site benefitting EE.
- No existing electricity infrastructure occurs on the subject site or connected to the site.
- The subject site is in close proximity of EE's Anzac Village Zone Substation located at Anzac Road Wattle Grove (Lot 3004 DP1125930)

Subject to a number of recommendations and comments, EE have noted that they raise no objection to the Development Application. These recommendations and a brief response to each are provided below.

1. *Network Capacity / Connection: In due course the applicant for the proposed development of the site will need to submit an application for connection of a load. Advice on the electricity infrastructure required to facilitate the proposed development can be obtained by submitting a Technical Review Request.*

The proposed Modification is for subdivision only. No physical works are required and no warehousing, distribution or freight terminal development is proposed beyond that currently approved. Therefore, no supply from EE is required.

2. *Network Asset Design: requirements for electricity connections to new urban subdivisions/development.*

The proposed Modification is for subdivision only, and not for the purposes of urban development. No connection to network assets is required.

3. *Earthing: construction of any building or structure that is connected to or in close proximity to EE electrical network is required to comply with AS/NZS 300:2018.*

The proposed Modification is for subdivision only, and no structures or buildings (permanent or temporary) are proposed. Compliance with the Standard is noted but not directly relevant in this case.

4. *Location of Electricity Easements / Prudent Avoidance: whenever reasonable possible, easements be entirely incorporated into public reserves and not burden private lots.*

As stated by EE, there are no easements over the site benefitting EE. This recommendation is noted, but not directly relevant in this case.

5. *Vegetation Management: the planting of large trees near electricity infrastructure is not supported by EE.*

The proposed Modification is for subdivision only, and no physical works, including landscaping, is proposed.

6. *Dial Before You Dig: before commencing any underground activity, the Applicant is required to obtain advice from the Dial Before You Dig service.*

The proposed Modification is for subdivision only, and no physical works, including underground activity, is proposed. Advice from the Dial Before You Dig service is therefore not required.

7. *Public Safety: workers involved in work near electricity infrastructure run the risk of receiving an electric shock and causing substantial damage to plant and equipment.*

No physical works are proposed as part of this proposed Modification. The recommendations related to public safety is noted, however not directly relevant for this application.

8. *Emergency Contact: in case of an emergency relating to EE's electrical network, the applicant should note the emergencies telephone.*

No physical works are proposed as part of this proposed Modification and so emergencies related to the electrical network are not anticipated. The contact information is noted, however is not considered directly relevant to this application.

3. Conclusion

SIMTA are seeking approval to modify SSD 7628 for MPE Stage 2 Site to:

1. Create an additional four lots by subdivision to facilitate the intended establishment and operation of the rail corridor access for the ongoing sustainable operation and management of the MPE Site and the lots contained therein.
2. Modification of CoC C21(c)(ii) to reduce the frequency of construction compliance reporting from quarterly to 6-monthly.

Following exhibition of the Modification, one submission seeking additional information was received from TfNSW. Key issues raised in the TfNSW submission are associated with the proposed subdivision and its implications on the proposed MARW (or Moorebank Avenue South Upgrade) and proposed Cambridge Avenue upgrade works. EE also provided a submission, however given no physical works are proposed the recommendations provided are noted but not directly relevant to the proposed Modification. Section 2 of this RtS provides responses and additional information, where required, to address both submissions.

This RtS has determined that the proposed Modification does not involve any additional potential environmental impacts, and no further impact assessment is required. The Modification proposal therefore remains unchanged.