Item	Ref.	Type	Details of item	Proposed or completed action	By whom and by when	Status	SIMTA Actions	Evidence of Action
MPE Stage 1 – SSD 6766								
1	CoC F4 (and FCMM 7D)	Observation	CoC F4 requires that the Applicant shall prepare and implement (following approval) an Operation Environmental Management Plan (OEMP). FCMM from within the OEMP states that residual risk of contamination to soils and groundwater during operation of the Proposal will be mitigated through the implementation of the following mitigation measures, which will be included within the OEMP for the site: • The proposed diesel tank (used for refuelling) will be self-bunded and compliant with AS - 1940-2004 The storage and handling of flammable and combustible liquids. • An Emergency Response Plan (including a Pollution Incident Response Management Plan) will be developed for operation of the Proposal. A spill kit will be provided within the Stage 1 site at all times. • A refuelling procedure will be developed and implemented for all refuelling activities undertaken and included in the site OEMP. **The point of refuelling the Reach Stacker Cranes is not adequately bunded. In the event of a loss of containment, the spilled material has the potential to enter the rail corridor and / or the stormwater network.**	Design and construct secondary containment at the RHi each Stacker Crane refuelling area that is able to suitably contain leaks and spills.	SIMTA 30/06/22	OPEN	Agree, works to be undertaken.	Pending
2	CoC G7	Observation	**CoC G7 requires that the Applicant shall provide an annual report (reporting on the noise monitoring undertaken on the Rail Link) 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 the IMEX No 1 terminal.** **The Rail Link Noise Monitoring Report prepared by Renzo Tonin identifies the commencement of operations as November 2019. The auditees advise that this represents the commissioning phase of the IMEX Terminal and Rail Link prior to operations. The auditees advise that commencement of operations occurred on 17/05/20.**	NA	NA	CLOSED	N/A	N/A
3	CoC G7B	Observation	**CoC G7B requires that monitoring of the Rail Link occur as prescribed by the condition, and that (by way of G7B(e) the report of the noise survey including the results and recommendations shall be provided to the Secretary.** **Note that this finding relates to the same issue as that identified against CoC G7.** **The Rail Link Noise Monitoring Report prepared by Renzo Tonin identifies the commencement of operations as November 2019. The auditees advise that this represents the commissioning phase of the IMEX Terminal and Rail Link prior to operations. The auditees advise that commencement of operations occurred on 17/05/20.**	NA	NA	CLOSED	N/A	N/A

Item	Ref.	Type	Details of item	Proposed or completed action	By whom and by when	Status	SIMTA Actions	Evidence of Action
4	CoC G8	Observation	**CoC G8 requires that the following measures must be implemented during operation:** a) The use of top of rail friction modifiers and automatic rail lubrication equipment in accordance with ASA Standard T HR TR 00111 ST Rail Lubrication, where required; and b) 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. **On the day of the site inspection it was observed that there was buckling on the Rail Link approximately 200m south of the IMEX Terminal. It is unclear as to whether this adversely impacts rail cross sectional profile. The auditees advise that the infrastructure is still within the contractors defect liability period.**	Investigate the extent and potential impact associated with the buckling observed on the Rail Link approximately 200m south of the IMEX Terminal and make recommendations (with associated timeframes) to rectify the buckling (if required).	SIMTA (or responsible contractor) 30/09/21 (for the completion of the investigation and identification of recommendations, if any)	OPEN	Agree. This has been scheduled with Qube's rail maintainer for repair.	Pending
5	CoC G10	Non-compliance	**CoC G10 requires that containers must be transferred between the site and Port Botany predominantly by rail, unless where unforeseen circumstances have occurred (e.g. an incident, breakdown, derailment or emergency maintenance on the rail line). The Secretary may at any time request the Applicant to demonstrate that the transport of containers between the site and Port Botany container terminals is by rail. This is to be demonstrated upon request by the Secretary for the prior 12 month period.** **There was no evidence available to demonstrate that containers are predominantly transferred by rail. The auditees advise that there a methodology in place to manage this requirement should the Secretary request this information, however this was not presented to the Auditor.**	Verify the proportion of containers transferred between the site and Port Botany by rail and road.	SIMTA 30/09/21	OPEN	SIMTA does not deem this as a Non-Compliance. Under Condition G10, there is no physical deliverable for this condition to be assessed.	No Action
6	CoC G11	Non-compliance	**CoC G11 requires that the Applicant shall prepare a six-monthly report to the Secretary with the results of container and vehicle monitoring for a period of 3 years, or as otherwise agreed with the Secretary, from the commencement of operation of the IMEX No 1 terminal. The Secretary shall consider the need for further reporting following a review of the results for year 3. The report shall include:** a) **The number of twenty foot equivalent units dispatched and received during the period;** b) **A record of heavy vehicle entry by date and approximate time; and** c) **The number of light vehicles turning right into the terminal site from Moorebank Avenue and turning left from the terminal site onto Moorebank Avenue for a representative day.** **It is understood that operations commenced on 17/05/20. The first 6-monthly report was finalised on 15/02/21 and submitted on 24/02/21 (more than 6 months after commencement).**	The first 6-monthly report was submitted after the due date.	NA	CLOSED		

Item	Ref.	Type	Details of item	Proposed or completed action	By whom and by when	Status	SIMTA Actions	Evidence of Action
7	CoC G13	Non-compliance	**CoC G13 requires that the Applicant must carry out any activity, or operate any plant, in or on the premises by such practicable means as may be necessary to prevent or minimise air pollution.** **The January, February and March 2021 Monthly Air Quality Monitoring Reports identify exceedances of the PM_{10} criteria that should be investigated. There was no evidence of any such investigations having been carried out.** **The Auditor also observes that the Six Monthly Operational Air Quality Compliance Report identified 7 x instances of exceedances of the $PM_{2.5}$ 24 hr avg criteria and 20 x instances of exceedances of the PM_{10} 24 hr avg criteria. Most of these were attributed by the Project to MPW works (material import activities, including operation of mobile plant and heavy vehicles and the import and handling of tunnel spoil). Correlation to MPE could not be confirmed.**	Investigate historical exceedances of the PM_{10} criteria and take action as necessary.	SIMTA 30/09/21	OPEN	Agree.	Pending
8	CoC G15	Non-compliance	**CoC G15 requires that within 12 months of the commencement of operation of the Project, or as otherwise agreed by the Secretary, the Applicant shall undertake operational noise monitoring to compare actual noise performance of the project against noise performance predicted in the review of noise mitigation measures predicted in documents specified under condition A1 of the approval, and prepare an Operational Noise Report to document this monitoring. The Applicant shall (by way of CoC G15(h)) provide the Secretary and the EPA with a copy of the Operational Noise Report within 60 days of completing the operational noise monitoring, or as otherwise agreed by the Secretary.** **According to the dates of monitoring specified within the Draft Annual Noise Review, the Report has not been submitted to the identified stakeholders within 60 days of completion of the monitoring (as required by CoC G15(h)).**	Submit the Annual Noise Review Report to the Department and the EPA.	SIMTA Upon finalization of the Annual Noise Review Report.	OPEN	Agree. The Annual Noise Report was issued to DPIE 23.6.21 and was issued to the EPA on 23.6.21	Submission to DPIE via the Planning Portal. Email to EPA on 23.6.21
MPE Stage 2 – SSD 7628								
9	CoC A12	Non-compliance	**CoC A12 requires that the warehousing and distribution facilities must only be used for activities associated with freight using the MPE Stage 1 rail intermodal terminal.** **The Auditor requested that the auditee provide evidence to demonstrate that the warehouse and distribution facilities are confined to activities associated with freight from the MPE Stage 1 intermodal facility, given that there is significant opportunity for tenants to move freight from and to the road network without the use of MPE Stage 1. The auditee responded by stating without any supporting evidence that: *The intermodal issues daily the amount of TEUs to be issued to Tenants* and that there a methodology in place to manage this requirement should the Secretary request this information. Information to support this position was not presented to the Auditor.**	Verify that **warehousing and distribution facilities are only being used for activities associated with freight using the MPE Stage 1 rail intermodal terminal ensure tenants comply with the requirement.**	SIMTA 30/09/21	OPEN	SIMTA does not deem this as a Non-Compliance. Under Condition A12, there is no physical deliverable for this condition to be assessed.	No Action

Item	Ref.	Type	Details of item	Proposed or completed action	By whom and by when	Status	SIMTA Actions	Evidence of Action
10	CoC B13	Non-compliance	**CoC B13 requires that the Applicant is to undertake road upgrades, in accordance with the specified timing requirements as set out in Table 1 of SSD 7628. This includes a requirement that 100% design for the road upgrades be approved by Transport for NSW prior to the issue of the Occupation Certificates.** **100% design approval for each road upgrade has not been obtained prior to the issue of the Occupation Certificates.** **The Auditor requested evidence of 100% design approval of each road upgrade, prior to issue of the Occupation Certificates. The auditee provided the following response: *Detailed design and consultation with* [Transport for NSW] *TfNSW for the required upgrades is in progress and approved for the Moorebank Avenue upgrade works.*** ***The MPE Stage 2 Modification 1 application (SSD7628_MOD1), sought to alter the timing requirements for 100% design approval and delivery for the upgrades to align with the timing of the actual impact more closely to the local network they are required to mitigate, was lodged in January 2019.*** ***This is not considered to be a non-compliance against the requirements of this condition as the Applicant has undertaken all reasonable measures to enable compliance. By the nature of this condition the ability to achieve compliance is dependent on a third-party regulatory body, TfNSW (incorporating RMS) and the Applicant does not accept responsibility for TfNSW's inability to finalise its review of the MPE Stage 2 Modification 1 application despite the application being lodged in January 2019 in consultation with TfNSW and RMS, and draft conditions of approval being issued by DPIE.*** ***The approval of this Modification is still ongoing.*** **The Auditor considers this to be a non-compliance until such time as Modification 1 is approved, or design is approved.**	Obtain approval of Modification 1, or 100% design of the road upgrades.	SIMTA Prior to the road upgrade works commencing	OPEN	The MPE Stage 2 Modification 1 application (SSD7628_MOD1), among other things, sought to alter the timing requirements for 100% design approval and delivery for the upgrades to align with the timing of the actual impact more closely to the local network they are required to mitigate, was lodged in January 2019. SIMTA does not considered Condition B13 to be a non-compliance as the Applicant has undertaken all reasonable measures to enable compliance. By the nature of this condition the ability to achieve compliance is dependent on a third-party regulatory body, TfNSW (incorporating RMS). The Applicant does not have responsibility for TfNSW's response to finalise approvals or progress via DPIE the MPE Stage 2 Modification 1 application despite the application being lodged in January 2019 in consultation with TfNSW and RMS, and draft conditions of approval being issued by DPIE.	Pending Modification Approval
11	CoC B28	Non-compliance	**CoC B28 requires that the Applicant is to prepare a Biannual Trip Origin and Destination Report (BTODR) each six months following commencement of any operation (in a format agreed with TfNSW and RMS). The report is to be submitted within one month of its preparation throughout operation of the project, starting six months from the commencement of operation, unless otherwise agreed by the Secretary, TfNSW and RMS.** **It is understood that operations commenced on 17/05/20. The first BTODR was finalised on 15/02/21 and submitted on 24/02/21 (more than 6 months after the commencement of operations).**	The BTODR was submitted after the due date.	NA	CLOSED		

Item	Ref.	Type	Details of item	Proposed or completed action	By whom and by when	Status	SIMTA Actions	Evidence of Action
12	CoC B29	Observation	**CoC B29 requires that, prior to the issue of any Occupation Certificate, the Applicant must prepare a Workplace Travel Plan to the satisfaction of the Secretary.** **The Workplace Travel Plan was prepared and approved by the Department. In the Department's 28/04/20 approval letter they recommend that SIMTA continue to liaise with Transport for NSW to facilitate the successful implementation of the Workplace Travel Plan across the precinct. It is unclear how this is being fulfilled. Refer also the finding in relation to CoC B30 below.**	Continue with ongoing consultation with Transport for NSW on the implementation of the Workplace Travel Plan.	SIMTA 30/06/22	OPEN	SIMTA believes Condition B29 have been met. The Workplace Travel Plan has been approved in 28/4/20. The recommendation made by the Department relates to Condition B30.	No Action
13	CoC B30	Observation	**CoC B30 requires that the Applicant must ensure that the Workplace Travel Plan is implemented for the life of the development.** **Whilst signage, access and end of trip facilities have been constructed / implemented, there are a number of initiatives from within the Workplace travel Plan that rely on tenants and Transport for NSW carrying out certain actions. These include (but are not limited to) completion of feasibility studies and annual reviews on public transport and shuttle bus demand etc, communications on sustainable transport options, implementation and review of Transport Action Guides, walking and cycling buddy systems. The initiatives that relate to tenant activities are not addressed or only barely addressed in the approved tenant Warehouse OEMPs. Initiatives relying on Transport for NSW are subject to ongoing consultation.**	Direct tenants to implement actions from the Workplace travel Plan that relate to their workforces. Continue with ongoing consultation with Transport for NSW on the implementation of the Workplace Travel Plan.	SIMTA 30/06/22	OPEN	With the ongoing development of MPE Precinct and until such time that Moorebank Avenue Upgrade is completed, the Precinct will not be able to establish permanent solutions to public transport, shuttles, walking and cycling infrastructure. The Applicant is having ongoing discussions with TfNSW via the WAD process. Due to COVID-19 with social distancing restrictions. Some recommendations within the Transport Access Guide cannot be implemented.	Ongoing consultation with TfNSW.

Item	Ref.	Type	Details of item	Proposed or completed action	By whom and by when	Status	SIMTA Actions	Evidence of Action
14	CoC B47	Non-compliance	**CoC B47 requires that written signoff from the design engineer(s) responsible for the construction drawings is to be provided to the Secretary certifying that the system has been constructed in accordance with the construction drawings or, where modified, this has not adversely affected the performance of the system.** **The Auditor requested evidence be provided to demonstrate that systems had been constructed as designed. This evidence was not provided by the auditee, nor was evidence of this information having been provided to the Department.** **In response to this finding, the auditee noted that this requirement was assessed within the audit completed in accordance with CoC B51, however the Auditor observes that the CoC B51 audit scope does not include verification that the stormwater system was constructed as per the design. It does however state that the system appears to be functioning as intended. Refer Section 3.8.5 and CoC B51 within Appendix B.**	Obtain written sign off from the design engineers and submit this to the Department.	SIMTA 30/09/21	OPEN	SIMTA does not considered Condition B47 to be a non-compliance. The Stormwater Management Plan (SMP) was approved by DPIE to be submitted as part of a suite of phased documentation. SMP W1P (rev 2) - 28 June 2018 was for the construction and operation of Warehouse 1 Precinct and demolition and completion of bulk earthworks for the remainder of the site. The SMP-W1P (rev 2) - 28 June 2018, was approved by DPIE on 2 July 2018. The SMP – Balance of Site (SMP – BoS), prepared by Costin Roe, was approved by DPIE on 18 March 2020 on condition that all the onsite detention basin outlets to natural drainage lines must be constructed of natural materials to facilitate natural geomorphic processes and to include vegetation, as necessary. Interim and Ultimate OSD 9 & OSD 10 Stormwater Management Plan (Rev D, dated 17 August 2020) was conditionally approved by DPIE on 14 September 2020. The revised Interim and Ultimate OSD 9 & OSD 10 Stormwater Management Plan (Rev E, dated 18 February 2021) was approved by DPIE on 19 March 2021.	No Action
15	CoC B54	Non-compliance	**CoC B54 requires that best practice reactive and proactive management measures must be implemented to minimise dust generated during all works authorised by this consent.** **Note that this finding relates to the same issues as identified against SSD 6766 CoC G13.** **The January, February and March 2021 Monthly Air Quality Monitoring Reports identify exceedances of the PM_{10} criteria that should be investigated. There was no evidence of any such investigations having been carried out.** **The Auditor also observes that the Six Monthly Operational Air Quality Compliance Report identified 7 x instances of exceedances of the $PM_{2.5}$ 24 hr avg criteria and 20 x instances of exceedances of the PM_{10} 24 hr avg criteria. Most of these were attributed by the Project to MPW works (material import activities, including operation of mobile plant and heavy vehicles and the import and handling of tunnel spoil). Correlation to MPE could not be confirmed.**	Investigate historical exceedances of the PM_{10} criteria and take action as necessary.	SIMTA 30/09/21	OPEN	Agree.	Pending

Item	Ref.	Type	Details of item	Proposed or completed action	By whom and by when	Status	SIMTA Actions	Evidence of Action
16	CoC B87	Non-compliance	**CoC B87 requires that the Applicant must provide the Secretary and the EPA with a copy of the Operational Noise Report within 60 days of completing the operational noise monitoring referred to CoC B86(a), or as otherwise agreed by the Secretary.** **Note that this finding relates to the same issues as identified against SSD 6766 CoC G15.** **According to the dates of monitoring specified within the Draft Annual Noise Review, the Report has not been submitted to the identified stakeholders within 60 days of completion of the monitoring.**	Submit the Annual Noise Review Report to the Department and the EPA.	SIMTA Upon finalization of the Annual Noise Review Report.	OPEN	Agree. The Annual Noise Report was issued to DPIE 22.6.21 and was issued to the EPA on 23.6.21	Submission to DPIE via the Planning Portal. Email to EPA on 23.6.21
17	CoC B130	Non-compliance	**CoC B130 requires that prior to an occupation certificate being issued, the Applicant must submit to the Secretary a Site Audit Statement, prepared in accordance with the NSW Contaminated Land Management – Guidelines for the NSW Site Auditor Scheme (3rd edition, 2017), which demonstrates that the site is suitable for its intended land use (i.e. Section 'A'). The Site Auditor must consider the most up to date PFAS guidance.** **A request was made for the auditee to provide evidence of the Site Audit Statement/s (SASs) being submitted to the Department. In response the auditee presented:** • **the agreement from the Department to stage the submission of SASs for SSD 7628 along with the submission of the first SAS. However the SAS was not presented and the Auditor cannot ascertain the land to which it relates.** • **The Department post approval lodgement records for the SAS for Lot 22. Again the SAS was not presented and therefore the Auditor cannot confirm the land to which this relates.** • **Copies of each SAS along with a statement that each Occupation Certificate refers to the SAS.** **The Auditor is unable to confirm if SASs have been submitted to the Department for each / all warehouses that have had Occupation Certificates issued.**	Demonstrate that the SASs have been submitted to the Department for each/all warehouses that have had Occupation Certificates issued.	SIMTA 30/09/21	OPEN	SIMTA does not considered Condition B130 to be a non-compliance. DPIE approved staging of Site Audit Statement under CoC A14 on 2 April 2019. The Site Audit Statements will be progressively prepared and submitted to the Secretary one month prior to the issue of an occupation certificate for that relevant stage. (Warehouse 1) Site Audit Statement for Lot 24 (Northwest Limited Works Stage) prepared by EPA accredited auditor was submitted to the Secretary on 20 May 2019. Site Auditor certified that the Statement was prepared "with due regard to relevant laws and guidelines". (Warehouse 6,7,8) Site Audit Statement for Lot 23 prepared by EPA accredited auditor on 21 July 2020 was submitted to the Secretary. The Site Auditor certified that the Statement was prepared "with due regard to relevant laws and guidelines". (Warehouse 3,4,5) Site Audit Statement for Lot 22 prepared by EPA accredited auditor on 15 October 2019 was submitted to the Secretary. The Site Auditor certified that the Statement was prepared "with due regard to relevant laws and guidelines".	No Action

Item	Ref.	Type	Details of item	Proposed or completed action	By whom and by when	Status	SIMTA Actions	Evidence of Action
18	CoC C9	Observation	**CoC C9 requires that within three months of:** a) **the submission of an annual review under condition C10;** b) **the submission of an incident or non-compliance notification under condition C13;** c) **the submission of an audit under condition C18;** d) **the approval of any modification of the conditions of this consent; or** e) **the issue of a direction of the Secretary under condition A2;** **the strategies, plans and programs required under this consent must be reviewed, and if necessary to either improve the environmental performance of the development, cater for a modification or comply with a direction, must be revised, to the satisfaction of the Secretary. Where revisions are required, the revised document must be submitted to the Secretary for approval within six weeks of the review.** **Note: The purpose of this condition is to ensure that strategies, plans and programs are regularly updated to incorporate any measures recommended to improve the environmental performance of the development.** **There is no evidence of a review of the strategies, plans and programs having been formally initiated within 3 months of the last 2 x Annual Reviews or the approval of Modifications 3 and 4. However the Auditor considers that the strategies, plans and programs have been subject to regular review (and updates) pursuant to the approved Program for Operational Phase Documentation and capture measures to manage the environmental performance of the Project, and that the Department has been informed of these updates through the submission of the documents for approval.**	Obtain clarification from the Department on the application of this condition in consideration of the approved Program for Operational Phase Documentation.	SIMTA 30/09/21	OPEN	All operational management plans are prepared in accordance with this requirement. The OEMP and Subplans are reviewed regularly and in line with the approved Program for Operational Phase Documentation. In response to the Auditor's observation, Annual review of Environmental Performance #03 (January 2020 - December 2020) was submitted to DPIE in April 2021. This review did not trigger any changes to the approved strategies in placed. The approval of Modification 3 and 4 is related to construction conditions, which does not require immediate action to the approved OEMP and Subplans	Update the OEMP and Subplans to include Modification 3 and 4 references prior to operation of Area 3 (Warehouse 6,7,8).