



Moorebank Intermodal Precinct East – Stage 2 Modification 1

Changes to timing for road upgrade design approval and
completion of works
State Significant Development Modification Assessment
(SSD 7628 MOD 1)

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Glossary

Abbreviation	Definition
CIV	Capital Investment Value
Council	Liverpool City Council
Department	Department of Planning and Environment
DJLU	Defence Joint Logistics Unit
EES	Environment, Energy and Science Group, Department of Planning, Industry and Environment
EIS	Environmental Impact Statement
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
LEP	Local Environmental Plan
Minister	Minister for Planning
MPE	Moorebank Precinct East
MPW	Moorebank Precinct West
Planning Secretary	Secretary of the Department of Planning and Environment
RTS	Response to Submissions Report
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development
TEU	Twenty-foot Equivalent Unit
TfNSW	Transport for NSW

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1 Introduction

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

The modification application seeks approval to amend the MPE Stage 2 development consent to change the timing of requirements related to the provision of road infrastructure upgrades.

The application has been lodged by Aspect Environmental Pty Limited on behalf of Sydney Intermodal Terminal Alliance (SIMTA), as The Trust Company (Australia) Limited (the Applicant), under section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**).

1.1 Background

The Moorebank Intermodal Precinct (also known as the Moorebank Intermodal Freight Precinct or Moorebank Logistics Park) is located at Moorebank Avenue, Moorebank. It is proposed to comprise an interstate, intrastate and port shuttle freight and logistics handling facility for the Sydney Metropolitan Area. The precinct covers an area of approximately 303 hectares and extends from the M5 South Western Motorway and the Defence Joint Logistics Unit (DJLU) site in the north and north-east to the East Hills Rail Line in the south. It is divided into two: MPE and Moorebank Precinct West (MPW) (**Figure 1**).

Two separate concept approvals cover the MPE and MPW sites:

- concept plan approval for MPE: an IMEX port shuttle freight terminal, rail link to the Southern Sydney Freight Line (SSFL) and associated warehousing and estate works (MP 10_0193) – see section 1.3.
- concept consent for MPW: an import/export (IMEX) port shuttle freight terminal and separate interstate/intrastate freight terminal and associated warehousing and estate works (SSD 5066) – see section 1.3.

Works on the MPE site have commenced under current and active development consents:

- MPE Stage 1, which provides for the construction and 24/7 operation of an intermodal terminal (Stage 1 SIMTA Concept Plan), a rail link connecting the site to the Southern Sydney Freight Line, remediation and levelling works, and drainage and utility installation (SSD 6766) – see section 1.3.
- MPE Stage 2 provides for the construction and 24/7 operation of Stage 2 of the SIMTA Concept Plan, including earthworks, warehousing and freight village construction, ancillary works, the Moorebank Avenue upgrade and intersection upgrades (SSD 7628) – see section 1.3.

1.2 The site and surroundings

The MPE site is located on the eastern side of Moorebank Avenue and forms part of the east section of the Moorebank Intermodal Precinct (**Figure 1**).

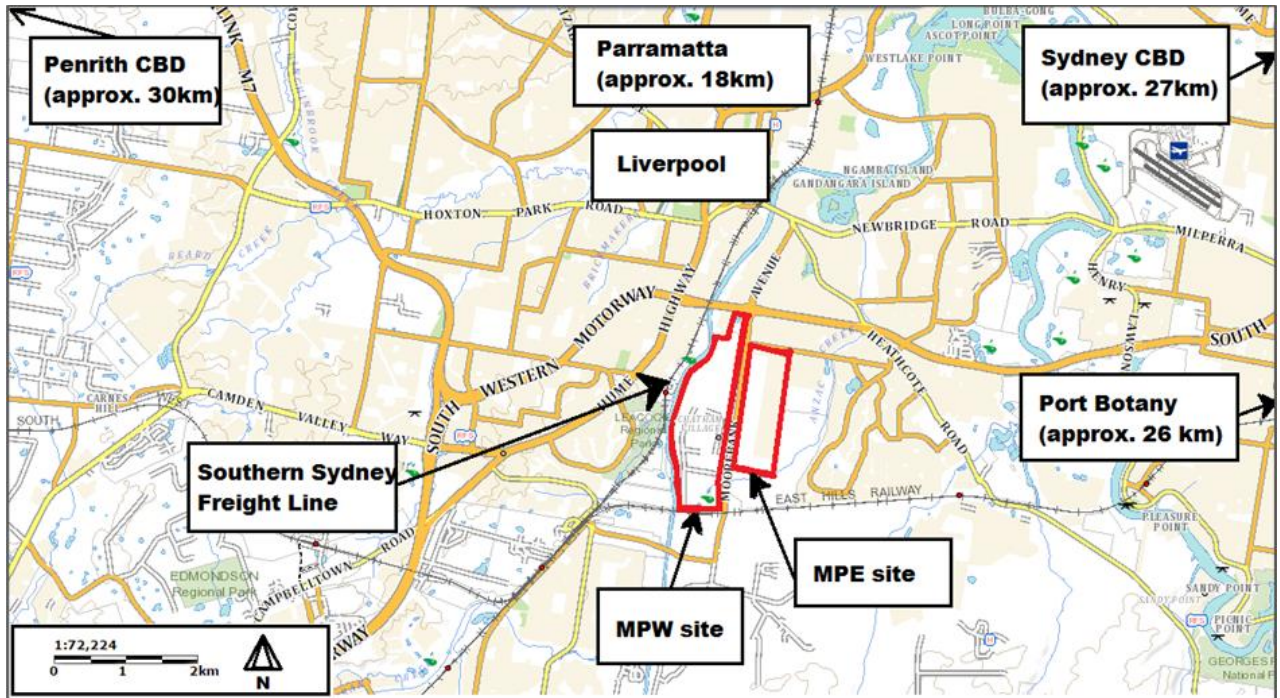


Figure 1 | Site location (outlined red) (Base source: SIX Maps)

The MPE site is rectangular in shape, approximately 1.4 kilometres long from north to south and 600 metres wide from east to west, and covers an area of approximately 95 ha. It is situated between Moorebank Avenue to the west, densely vegetated Commonwealth Land (known as the 'Boot Land') to the east and south, and the DJLU site to the east. The Holsworthy Military Reserve is located south of the East Hills Line.

The area surrounding the MPE site comprises of several different land uses. To the north, beyond the DJLU is the Yulong Business Park and a 200 ha industrial precinct, which supports a range of uses including freight and logistics, heavy and light manufacturing, office and business park developments.

The closest residential properties to the site area in Wattle Grove to the north-east (approximately 360 m), Wattle Grove North (approximately 500 m) and Casula to the west (approximately 900 m).

Surrounding land uses are shown in **Figure 2**.

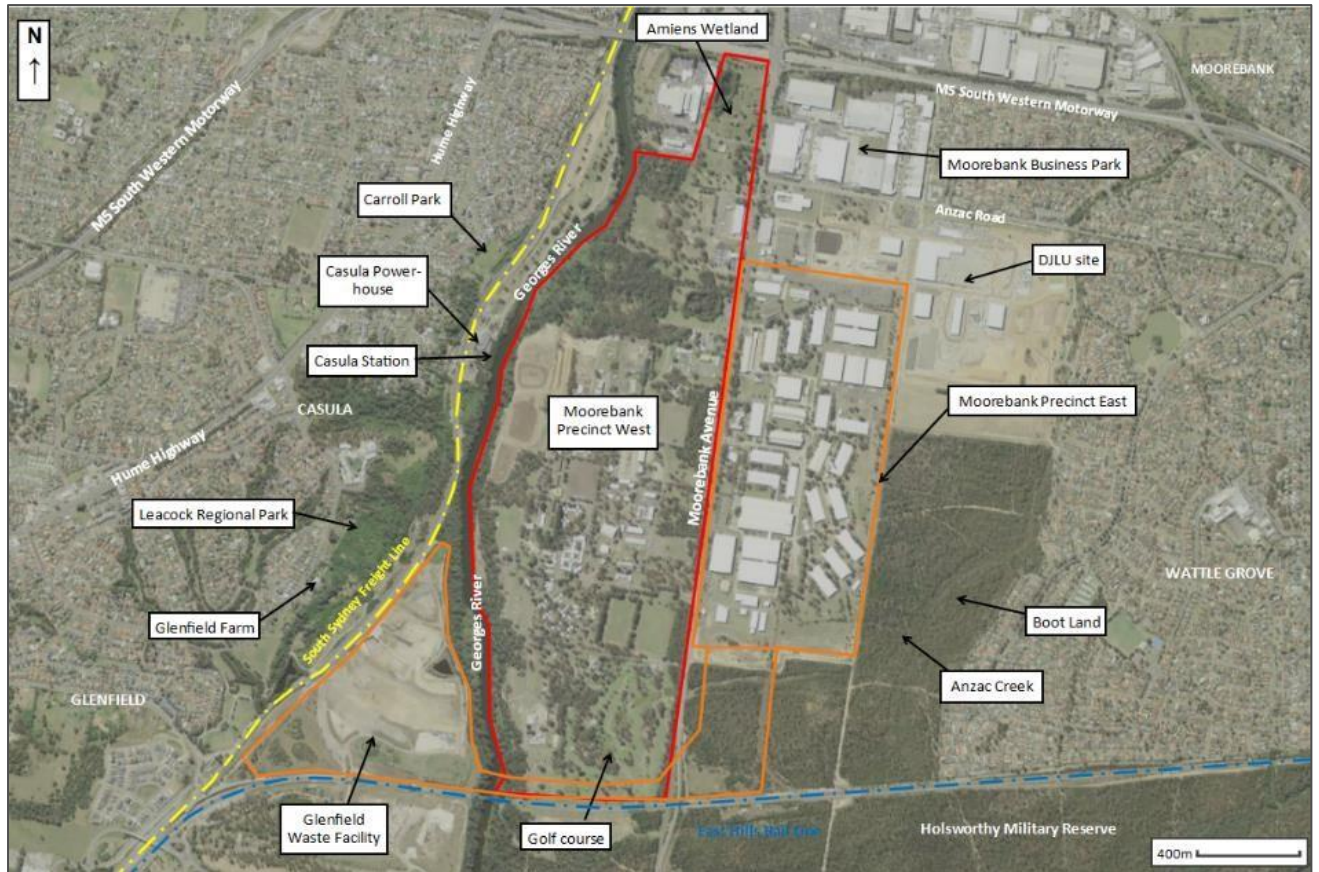


Figure 2 | Surrounding land uses (Base source: Nearmap)

1.3 Approval history

1.3.1 MPE Concept Plan (MP 10_0193)

On 29 September 2014, the then Planning Assessment Commission (the Commission), as delegate of the Minister for Planning, approved a Concept Plan (MP 10_0193) for the use of the site as an intermodal facility, including:

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

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

On 31 January 2020, a third modification (MP 10-0193 MOD 3) to the Concept Plan approval was approved, to extend the construction and operational footprint at the southern extend of the MPE site, to facilitate onsite detention (OSD) basin number 2 (OSD 2).

1.3.2 MPE Stage 1 (SSD 6766)

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

- an intermodal terminal facility operating 24 hours per day, 7 days a week, handling a container freight throughput of up to 250,000 twenty-foot equivalent units (containers) per annum, including:
 - truck processing and loading areas
 - rail loading and container storage areas
 - an administration facility and associated car parking
 - a rail link running adjacent to the East Hills Rail Line, connecting the southern end of the site to the Southern Sydney Freight Line
 - associated works, including rail sidings, vegetation clearing, remediation and levelling works, drainage and utility installation.

1.3.3 MPE Stage 2 (SSD 7628)

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

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

Key components of the MPE Stage 2 Project include:

- earthworks, including the importation of 600,000 m² of fill, and vegetation clearing
- warehousing and additional ancillary offices, comprising approximately 300,000 m² gross floor area (GFA)
- freight village, comprising 8,000 m² GFA of retail, commercial and light industrial land uses
- establishment of an internal road network, and connection of the Project to the surrounding public road network
- ancillary supporting infrastructure within the Project site
- upgrade to Moorebank Avenue, including upgrading existing intersections along Moorebank Avenue
- operations being undertaken 24 hours per day and seven days a week
- subdivision of the MPE site into five lots.

The Applicant has commenced construction on MPE Stage 2 Project.

The MPE Stage 2 original development consent has previously been modified on three occasions (see **Table 1**).

Table 1 | Summary of MPE consents and modifications

Application	Development	Approval Date
MOD 1	Change in the timing for road upgrade design approval and completion of road upgrade works.	This Application: Under assessment
MOD 2	A section 4.55 (1A) application seeking modification to the construction and operation boundary, and stormwater infrastructure design requirements (B40(c)(iii)).	31 January 2020
MOD 3	A section 4.55 (1A) application seeking modification to create four lots as part of the subdivision of two lots within the MPE site, to facilitate the intended establishment and operation of the rail corridor access. Additionally, the application seeks to modify the compliance monitoring and tracking requirements of SSD 7628 by modifying the frequency of construction compliance report.	18 December 2020
MOD 4	A section 4.55 (1A) application seeking modification to exclude the Target warehouse carpark "Area 1" from the requirements to provide landscaped bays in car parks to include canopy trees for shade, and allow for the provision of alternate landscaping in that area.	19 January 2021

1.3.4 Other relevant approvals

1.3.4.1 Moorebank Avenue Realignment (SSI 10053)

On 14 October 2021, infrastructure approval was granted for the Moorebank Avenue Realignment project (SSI 10053). The Project is considered State significant infrastructure under Schedule 4, clause 7 of State Environmental Planning Policy (State and Regional Development) 2011.

Key components of the Project include:

- the construction of a multi lane road; and
- ancillary development including access roads, construction compounds, flood mitigation works, pedestrian and cycling facilities, road modification works, signage, stormwater management, signalised intersections and utilities infrastructure.

The realigned road once constructed would divert Moorebank Avenue around the eastern side of the MPE site, rather than travelling through the centre of the Intermodal Precinct, as is currently the case. The existing Moorebank Avenue would no longer carry through traffic and would be decommissioned or altered to provide restricted access to the Intermodal Precinct.

2 Proposed modification

2.1 Original modification application

On 23 September 2018, the Applicant lodged a modification application seeking approval to amend the MPE Stage 2 development consent.

The modification application initially sought to amend the MPE Stage 2 development consent to: signage controls (B141(f)), timing for intersection design approvals and road upgrades (B13) and biodiversity credit requirements (B104) in addition to an update to the cross referencing of conditions.

Further, on 17 April 2019, the Applicant submitted Response to Submissions (RtS). The RtS proposed changes to the timing requirements of design approval (B14) due to overlap with condition C13.

2.2 Revised modification application

On 23 September 2020, the Applicant confirmed they will no longer pursue to modify signage controls, biodiversity credit requirements or administrative changes to the cross referencing of conditions within the consent through this modification (MOD 1).

The Applicant submitted a revised modification application on the 19 November 2021, seeking approval to amend the MPE Stage 2 development consent to adjust the timing for intersection design approvals and road upgrades under conditions B13 and B14 only.

The revised modification application seeks to:

- enable up to 150,000m² of warehouses to be operational on the site prior to approval of the design any of the of the road upgrades
- remove existing requirements for the delivery of the Moorebank Avenue upgrade, and tie future delivery to a potential future modification application to increase in TEU throughput under the Concept Approval
- remove existing requirements for the timing of delivery of the M5 intersection upgrade, other than a requirement it be delivered by a date to be agreed with the Secretary of TfNSW.

These changes are set out in further detail below.

2.2.1 Timing of Intersection and Road Upgrades

The proposal seeks to amend condition B13 to allow for the operation of warehouses on site prior to final design approval of intersection and road upgrades.

The Applicant's proposed amendments are shown by the insertion of the **bold and underlined** words and deletion of the ~~bold and struckout words~~ in Table 1 of condition B13.

Table 1 of Condition B13 identifies required timing for the approval of design by RMS (now TfNSW) and the completion of road upgrade works associated with the Project. The Applicant proposes the timing in Table 1 of Condition B13 be revised to align with the current construction and operation

timeframes for the Project. The proposed modification to Table 1 of Condition B13 is shown in **Table 2**, with changes shown in bold, underline and strikethrough.

The Applicant is also seeking a further change to the condition, specifying that the upgrades are required, '**unless otherwise agreed by the Planning Secretary**'.

Table 2 | Proposed modification to Table 1 of Condition B13: Required Upgrades and Specified Timing Requirements (Source: Applicant's Amended Modification Letter)

Upgrade	Specified Timing Requirements		
	Upgrade requirements	Required timing for 100% design approval by RMS	Required timing for completion of upgrade
Moorebank Avenue / M5 Motorway intersection	<ul style="list-style-type: none"> Indicative layout to be provided by Applicant, subject to design development and approval by RMS 	To be obtained prior to the issue of the first Occupation Certificate for warehousing <u>in excess of 150,000m²</u>	Prior to issue of the first Occupation Certificate for warehousing in excess of 400,000m², or no later than December 2020, or a later A date as agreed with the Secretary of Transport for NSW
Newbridge Road / Moorebank Avenue intersection	<ul style="list-style-type: none"> Indicative layout to be provided by Applicant, subject to design development and approval by RMS 	To be obtained prior to the issue of the first Occupation Certificate for warehousing <u>in excess of 150,000m²</u>	By December 2022
Moorebank Avenue / Heathcote Road intersection	<ul style="list-style-type: none"> As strategically described for intersection I-5 Moorebank/Heathcote Road (page 76, MPE Stage 2 EIS Operational Traffic and Transport Impact Assessment) Heathcote Road bus jump lane must be retained or a bus jump lane of equivalent length replaced by the Applicant. Indicative layout provided by Applicant, subject to design development and approval by RMS 	To be obtained prior to the issue of the first Occupation Certificate for warehousing <u>in excess of 150,000m²</u>	By December 2022
Moorebank Avenue Upgrade , being the upgrade of Moorebank Avenue to four lanes between Anzac Avenue and the IMEX Terminal Main access point	<ul style="list-style-type: none"> Indicative layout provided by Applicant, subject to design development and approval by RMS, and incorporating a bicycle/pedestrian share lane 	To be obtained within 12 months of the date of this consent, or prior <u>Prior</u> to the issue of the first Occupation Certificate for warehousing <u>whichever is the sooner in excess of 150,000m²</u>	Prior to issue of an Occupation Certificate for warehousing in excess of 400,000m² of gross floor area <u>Prior to any application to increase container freight TEU throughput from 250,000TEU up to 500,000TEU under condition 1.7 of the MPE Concept Approval MP10_0193</u>

2.2.2 Timing of design approval

Condition B14

It is proposed to amend condition B14 to align the timing requirements Works Authorisation Deeds to be consistent with the proposed changes to timing in Condition B13, as indicated:

B14 **Where required**, A Works Authorisation Deed(s) (WAD) with RMS is to be executed by the Applicant for the infrastructure listed in Condition B13 prior to ~~the issue of the first Occupation Certificate for warehousing~~, **the required timing for 100% design approval by RMS for the relevant upgrade required by condition B13.**

The Department's detailed assessment of the proposed amendments to condition B13 and B14 is provided in **Section 6**.

3 Strategic context

The Moorebank Intermodal Precinct is identified as an 'important freight and logistics precinct' in *Building Momentum: State Infrastructure Strategy 2018-2038* (INSW 2018). The Strategy indicates that the terminal is one of the 'highest priority investments necessary to achieve a target of carrying 40 per cent of containerised traffic on the rail to and from Port Botany' to alleviate existing congestion on the road network around the site.

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

The Greater Sydney Commission's (GSC) *Greater Sydney Regional Plan – A Metropolis of Three Cities* (2018) notes that freight volumes are forecast to 'almost double in the next 40 years'. There will also be an 'increasing importance placed on 24/7 supply chain operations to maintain Greater Sydney's global competitiveness.' In addition, the Plan notes that 'substantial future industrial land supply', including the Moorebank Intermodal, 'will support large-scale logistics growth'.

The development is identified in the GSC's *Western City District Plan* (2018), which states that:

Investment in potential dedicated freight corridors will allow a more efficient freight and logistics network. Moorebank Intermodal Terminal is currently under construction in western Sydney, and will provide an integrated service including interstate terminals, warehousing, retail and service offerings, and rail connection to the Southern Sydney Freight Line, which also provides dedicated freight rail access all the way to Port Botany. Transport for NSW and the Australian Government are committed to supporting efficient movement of goods close to the Moorebank Intermodal Terminal by facilitating freight rail and road access.

4 Statutory context

4.1 Scope of modifications

The Department has reviewed the scope of the modification application and considers that the application can be characterised as a modification involving minimal environmental impacts as the proposal:

- would not increase the environmental impacts of the Project as approved, and
- is substantially the same development as originally approved.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1A) of the EP&A Act rather than requiring a new development application to be lodged.

4.2 Consent authority

The Minister for Planning is the consent authority for the application under section 4.5(a) of the EP&A Act. However, under the Minister's delegation dated 9 March 2022, the Director, Infrastructure Management may determine the application as:

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

4.3 Mandatory matters for consideration

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

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No. 44 – Koala Habitat Protection
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 64 – Advertising and Signage
- Draft State Environmental Planning Policy (Remediation of Land)
- Draft State Environmental Planning Policy (Environment)
- Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment
- Liverpool Local Environment Plan (LLEP) 2008.

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

5 Engagement

5.1 Department's engagement

Clause 117(3B) of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) specifies that the notification requirements of the EP&A Regulation do not apply to section 4.55(1A) modifications with minimal environmental impact. However, the Department considered it appropriate to exhibit the application on its website for 14 days from 24 January 2019 to 8 February 2019.

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

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

5.2 Summary of submissions – previous exhibition of MOD 1

During the exhibition period, the Department received a total of ten submissions, comprising one submission from Liverpool City Council, three submissions from Government agencies, one submission from a special interest group - East Liverpool Progress Association, and five public submissions. Six submissions objected to the proposal and four provided comments only.

A summary of submissions received from Council and Government agencies is provided in **Table 3**. Only those comments relevant to the intersection and road upgrades have been included in the Table below.

Table 3 | Summary of Council and Government agency submissions

Council

Liverpool City Council did not object specifically to the modification of the proposal, noting the overall development for Moorebank Intermodal is not supported by Council. Council provided the following comments:

- it does not support the proposed changes to the timing of the road upgrades as the timing would not be linked to the occupation of the warehouses which would generate the traffic necessitating the road upgrade works.
- it requested further information in relation to a draft planning agreement for the MPW site and future planning agreement for the MPE site.

TfNSW (RMS)

TfNSW did not object to the proposal and provided the following comments:

- further information is sought in relation to when occupation certificates would be sought
- further information is sought in relation to the management of heavy vehicles in the absence of the new signalised intersection on Moorebank Avenue

- clarification is requested around why the road upgrades should not be completed prior to the delivery of the Moorebank Avenue Road realignment or Moorebank Avenue South upgrade (required under the planning agreement for MPW site)
- requested further information regarding timelines for the development of the road designs

EPA

The EPA provided comments on other aspects of the original modification but did not provide any comments on the changes to the timing of the road upgrades

OEH (then Office of Environment and Heritage)

OEH provided comments on other aspects of the original modification but did not provide any comments on the changes to the timing of the road upgrades

5.3 Community Issues and Special Interest Groups

A total of six community submissions were received, all objecting to the proposal. The submissions predominantly raised issues in relation to aspects of the modification application that have since been removed from this application, or made general objections to the overall intermodal Project beyond the scope of the matters for consideration in the assessment of this application.

Three submissions objected to the proposal, including the East Liverpool Progress Association (the Association). The Association objected to the modification of Condition B13; key concerns included traffic impacts associated with the warehousing use and lack of modelling to assess those traffic impacts. Copies of all submissions may be viewed on major projects website.

5.4 Response to submissions

Following the exhibition of the modification application, the Department placed copies of all submissions on its website and requested the Applicant respond to all issues raised.

On 17 April 2019, the Applicant submitted a Response to Submissions (RtS) report (**Appendix A**) to address the issues raised during the exhibition. The RtS was made publicly available on the Department's website. The RtS was forwarded to the Council and agencies for comment. Only Council and TfNSW had outstanding concerns and their responses are summarised below.

Table 4 | Summary of public authority submissions on RtS

Council

Council noted that they did not support the modification of conditions relating to the timing of traffic upgrades without the imposition of further conditions and included several suggested conditions requiring the development of plans and the establishment of a Project Control Group.

TfNSW (RMS)

RMS advised that while they hold no in principle objection to the modification, the agency had a number of outstanding concerns in relation to traffic safety in relating to the proposed timing changes to the road upgrades. RMS also noted that requests for information to the Applicant remained outstanding. RMS provided feedback that timeframes and GFA triggers should not be removed from the conditions in their entirety.

On 19 November 2021, the Applicant submitted a revised modification application that sought to make further changes to the timing of the road upgrades under Conditions B13 and B14 as set out in **Section 2**.

The amended application maintains a request to modify the timing of intersection and road upgrades. As the requested modification (as amended) is consistent with the original modification application, the Department considered that re-exhibition was not necessary. Notwithstanding, the Department forwarded the amended application to Council and TfNSW for comment. A summary of their response is provided below.

Table 5 | Summary of public authority submissions on the amended application

Council

Council advised the M5 Motorway intersection was already operating at or close to capacity and that the existing approved GFA on the site would generate additional traffic demand and therefore Council would not support the issue of any further occupation certificates until the M5 intersection is complete. Council recommended some changes to the wording of Condition B13.

TfNSW (RMS)

TfNSW raised concerns with the lack of evidence-based assessment to support the modification and advised it does not support a number of the proposed changes, including:

- addition of the words “unless otherwise agreed by the Planning Secretary” in condition B13
- the proposed timing of the required completion date for the M5 intersection upgrade being limited to a date to be agreed with the Secretary for TfNSW,
- the proposed timing of the date of completion needed for the Moorebank Avenue upgrade being linked to TEU throughput,
- inclusion of the words ‘where required’ concerning the Works Authorisation Deeds in Condition B14.

TfNSW also questioned whether the Operational Traffic Management Plan required under condition B26 would need to be revised as a result of this modification.

6 Assessment

The Department has considered the modification application, the matters raised in submissions and the Applicant's RtS in its assessment of the proposal. The key issues identified are discussed in detail below under the main elements of the proposed modification.

Other issues considered during the assessment are discussed in **Section 6.4**.

6.1 Moorebank Avenue / M5 Motorway Intersection

The Moorebank Avenue / M5 Motorway Intersection upgrade was conditioned for delivery during the MPE Stage 2 development. Overall, the development would result in an increase in traffic volumes, which in conjunction with existing background traffic, will lead to unacceptable deterioration of the operation of the intersection. The required timing for the upgrade delivery was based upon advice provided by TfNSW and when the predicted impacts would likely occur.

The proposed modification seeks to:

- enable the approval of the design of the intersections to be delayed (from prior to any occupation of warehousing to prior to warehousing exceeding 150,000m²),
- enable the approval of any associated Works Authorisation Deed (WAD) to also be delayed, consistent with the change in design approval timing
- remove two of the three potential triggers for the required completion date of the upgrade works (December 2020, first occupation certificate in excess of 100,000 m²), resulting in timing to be limited to 'a date as agreed with the Secretary of TfNSW'.

The Department considers the key issue to be the timing of the delivery of the road upgrade, as traffic outcomes will be affected by the delivery date, rather than the design approval date, of the roadworks. Therefore, there are two critical matters for consideration:

- the appropriateness of the proposed trigger and certainty around the delivery of the road upgrade, and
- the traffic impacts of any proposed delay to the road upgrade.

Road upgrade triggers and delivery certainty

The existing condition provides a level of confidence in terms of delivery and timing of the works. As road upgrades tied to occupation of warehousing, or a specific date in the absence of any agreement by TfNSW, an alternative date.

The Department considers removing the alternative triggers (i.e. date / maximum GFA) would result in significant uncertainty or would place an additional onus on TfNSW to agree to a date for delivery for the roadworks. Further, TfNSW and the Applicant may never agree on a date for delivery, resulting in an indefinite timeframe for delivery of the roadworks, with associated adverse outcomes for traffic flows in the vicinity of the site and the intersection.

In this regard, TfNSW also advised it does not support the proposed change to the condition, as it is too vague, and raised concerns that removal of specified timeframe controls (including warehousing GFA) creates uncertainty as to the delivery of the road upgrades. Council raised similar concerns. TfNSW recommends the inclusion of a date that the Applicant can work towards.

The Department, therefore, considers the delivery of the roadworks should remain tied to either a final date or to warehouse GFA as a fallback requirement, in case there is no alternative date agreed to by TfNSW. In the absence of any evidence or traffic assessment to support an alternative date (as discussed below), the Department considers the current occupied warehouse GFA on the site (132,000 m²), may be the most appropriate fallback trigger as it would:

- allow the current operation of the site to continue, without contravening the consent requirements,
- provide certainty with regard to the provision of the road upgrades in the case that TfNSW does not agree to an alternative date,
- would be unlikely to result in significant additional traffic impacts compared to the 100,000 m² GFA currently permitted by the condition (see below),
- still allow for the Applicant to pursue an agreement with TfNSW for a later date.

Traffic impacts of the modification

The MPE Stage 2 approval anticipated the M5 intersection upgrade to be constructed by December 2020. Completing the upgrade was also aligned with the expected occupation forecast of more than 100,000m² warehousing GFA (previously advised by the Applicant, estimated to occur in the third quarter of 2020).

The proposed modification would delay the provision of the intersection upgrade and may potentially impact traffic. No further traffic assessment was provided with the amended application to demonstrate the potential traffic impacts of any delay to the intersection upgrade. Instead, the Applicant considers the road network demand and impact on intersections created by TEU throughput transported by road, rather than warehouse GFA and occupancy.

In previous traffic assessments, the Applicant has acknowledged that most trucks and vehicle movements generated by the development operation would travel through the M5 intersection. Therefore, the Department considers that regardless of the TEU throughput, the combined growth of background traffic (post December 2020), traffic generated by operational warehousing and any delay to the delivery of the intersection upgrade would result in changes to traffic impacts.

In the absence of a revised traffic assessment to demonstrate the impacts of the proposed modification, the Department does not support any additional changes to the delivery of the intersection. Extensive or indeterminate delays may result in significant adverse traffic outcomes, potentially increasing the Project's environmental impacts as approved.

TfNSW raised concern about the lack of supporting evidence on when the intersection should be completed. On this basis, TfNSW advises they do not support further delays to the intersection upgrade. Council also reported that the intersection is already operating at or close to capacity, raising concerns that even the existing 132,000m² of warehousing GFA would generate additional traffic demand beyond that initially forecast.

The Department notes the original traffic impact assessment for the MPE Stage 2 development found that the proposed development of 300,000m² of warehousing on the site would likely generate 564 truck trips (2 way) and 3,993 car trips (2-way) to and from the site each weekday.

¹ 132,000m² of warehousing GFA is operational on site and the trigger date of December 2020 has passed. Therefore the site is operating in contravention of Condition B13 of the approval.

On this basis, allowing warehousing GFA to increase from 100,000m² to 132,000m² prior to delivery of the upgrade is estimated to result in an additional 60 truck movements (increase from 188 to 248) and an additional 426 car trips (an increase from 1331 to 1757) two way per day. However, no modelling has been provided to demonstrate the impacts of the additional traffic movements on the M5 intersection.

The Department notes that although there would be minor traffic impacts, the additional vehicle movements spread over the day is unlikely to result in serious material adverse consequences to the operation of the intersection. It is also unlikely that all vehicles will travel through the intersection. Therefore, the Department considers a change to Condition B13, could be supported. The modified condition will balance the practical needs of the development by minimising the disruption to existing businesses already operating on the site. Further, the modification, although resulting in minor changes to traffic impacts, and therefore minor changes to the development, could be suitably managed by amendments to the existing construction and operational traffic management plans, required under the conditions of consent.

Notwithstanding the above, any further increase to the existing warehousing GFA on site, some growth in background traffic volume, and any further delay to the provision of the intersection upgrade may result in the deterioration of the performance of the intersection and should not be supported in the absence of a detailed traffic assessment.

The Department, therefore, recommends that the condition be amended to reflect that the roadworks are to be delivered prior to any additional warehousing beyond the existing 132,000m² occupied on the site unless TfNSW agrees to an alternative date.

Council recommended a further change to the condition to remove the ability for an alternative date to be agreed by TfNSW. However, the Department considers there is no justification for removing this existing aspect of the condition. The intersection is the responsibility of TfNSW, who recommended the initial wording, which provides a level of flexibility. In this regard, the Department notes TfNSW would consider the operation of the intersection and the outcomes for traffic in the precinct before agreeing to any alternative date. The modification application does not give rise to the need to remove this current level of flexibility from the consent.

Timing of design approval

Similarly, it is considered that the timing of the required design approval should be altered to require approval prior to the issue of the first Occupation Certificate for warehousing in excess of 132,000m², to enable the site to operate in accordance with the approval and to ensure consistency with the recommended timing for delivery.

Recommended condition

The following changes to the table in Condition B13 are therefore recommended:

<p>Moorebank Avenue / M5 Motorway intersection</p>	<ul style="list-style-type: none"> Indicative layout to be provided by Applicant, subject to design development and approval by RMS 	<p>To be obtained prior to the issue of the first Occupation Certificate for warehousing <u>in excess of 132,000m² on the site</u></p>	<p>Prior to issue of the first Occupation Certificate for warehousing in excess of 100,000m² 132,000m², or no later than December 2020, or a later date as agreed with the Secretary of Transport for NSW</p>
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6.2 Newbridge Road / Moorebank Avenue Intersection and Moorebank Avenue / Heathcote Road Intersection

With regard to these two intersections, the modification seeks to:

- enable the approval of the design of the intersections to be delayed (from prior to any occupation of warehousing to prior to warehousing exceeding 150,000m²)
- enable the approval of any associated required Works Authorisation Deed (WAD) to also be delayed, consistent with the change in design approval timing
- make no change to the ultimate requirement for delivery of these road upgrades, being December 2022.

The Department considers the key matter for consideration is the traffic impacts of any changes to the proposal.

Traffic impacts of the modification

In the case of these intersections, no changes are proposed to the required timing for delivery / completion of the upgrade works. Both intersections are required to be delivered by December 2022 and the Applicant has not indicated an intention to modify this requirement. Therefore, regardless of any proposed changes to the timing for design and works approval, the Applicant would be required to ensure the final design and works approval for these intersections would be completed in time to enable construction of the intersections to be complete by December 2022.

The Department considers that providing the intersections are delivered by December 2022 as required by the consent, the modification would result in no impacts for the associated traffic outcomes of the approval, regardless of any interim delay in design approval or Works Authorisation Deed execution.

However, to ensure a consistent approach with the requirements for other roadworks under this condition, and encourage no further delays to design progression, it is recommended that the timing for design approval reflect the current approved warehousing on the site (132,000m²) rather than the proposed 150,000m².

Recommended condition

The following changes to the table in Condition B13 are therefore recommended.

Newbridge Road / Moorebank Avenue intersection	<ul style="list-style-type: none"> • Indicative layout to be provided by Applicant, subject to design development and approval by RMS 	To be obtained prior to the issue of the first Occupation Certificate for warehousing <u>in excess of 132,000m² on the site</u>	By December 2022
Moorebank Avenue / Heathcote Road intersection	<ul style="list-style-type: none"> • As strategically described for intersection I-5 Moorebank/Heathcote Road (page 76, MPE Stage 2 EIS 	To be obtained prior to the issue of the first Occupation Certificate for warehousing <u>in</u>	By December 2022

<ul style="list-style-type: none"> Operational Traffic and Transport Impact Assessment) • Heathcote Road bus jump lane must be retained or a bus jump lane of equivalent length replaced by the Applicant. • Indicative layout provided by Applicant, subject to design development and approval by RMS 	<p><u>excess of 132,000m² on the site</u></p>
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6.3 Moorebank Avenue upgrade works

The upgrade of Moorebank Avenue is a key aspect of the overall MPE Stage 2 Development and includes raising the level of the road up to two metres to match the proposed grade and elevation of the adjoining MPW and MPE sites, expansion from two lanes to four lanes for part of the roadway, signalisation and works to intersections at site entrances, kerbs, gutters, sealed shoulder, shared pedestrian and cycle path, and bus stops (in consultation with TfNSW).

Condition B13 effectively requires the upgrade works proposed as part of the application to be extended further north, to the intersection of Moorebank Avenue and Anzac Road, and also establishes a timeframe for delivery of the works (prior to occupation of warehousing exceeding 100,000m²). The required timing was based on TfNSW advice that the roadworks are required prior to occupancy exceeding 30% of the warehousing (ie at 100,000m² GFA).

The proposed modification seeks to:

- enable approval of the design of the roadworks to be delayed (to prior to any warehousing to prior to warehousing exceeding 150,000m²) and enable the approval of any associated required Works Authorisation Deed (WAD) to also be delayed, consistent with the change in design approval timing
- change the required completion date of the upgrade works: from occupation in excess of 100,000 m², to 'prior to any application to increase container freight TEU throughput from 250,000TEU throughput up to 500,000TEU throughput under condition 1.7 of the MPE Concept Approval'.

TfNSW recently advised that the Applicant has now obtained 100% detailed design approval for the works subject to conditions in the Works Authorisation Deed. The Department therefore considers the key issue is the timing of the delivery of the road upgrade. Similar to the M5 intersection upgrade, there are two key matters for consideration concerning delivery of the road upgrade:

- the appropriateness of the proposed trigger and certainty of delivery of the road upgrade, and
- the traffic impacts of any proposed delay to the road upgrade.

Road upgrade triggers and delivery certainty

The existing condition ties the delivery and timing of the works to the occupation of warehousing on the site. The Applicant is seeking an alternative trigger: being the making of a new development application to increase TEU throughput on the Stage 1 site.

The Department considers removal of the existing GFA trigger from the condition, which directly relates to development on the site, and replacement with another trigger that is unrelated to the warehousing development approved under the MPE Stage 2 consent, would effectively remove the requirement for the extended roadworks to be delivered as part of this approval, as delivery of the

roadworks would be tied to a separate matter. Further, it is possible that the Applicant may never seek to make an application to 'increase container freight TEU throughput from 250,000TEU throughput up to 500,000TEU throughput', in which case the delivery of the roadworks could be delayed indefinitely, resulting in significant uncertainty for the delivery of the works, with potential associated adverse traffic outcomes.

Therefore, the Department, considers that the proposed modification does not result in a substantial change to the environmental impacts of the Project as approved and the delivery of the roadworks must remain tied to and be delivered in conjunction with the remainder of the works approved under the MPE Stage 2 approval.

Traffic impacts of the modification

The Applicant advises the basis for the proposed change is that road network demand is created by TEU throughput transported by road, rather than by warehouse GFA and occupancy, and that a TEU of 250,000 represents that which does not require an upgrade to Moorebank Avenue, as assessed and approved within the Concept Plan approval. The Applicant did not provide additional traffic assessment to support the proposed modification.

The Department disagrees with the Applicant's reasoning in the proposed modification. A Transport Assessment prepared in 2013 to support the original Concept Plan considered that Moorebank Avenue widening may not be required prior to exceeding 250,000 TEU on the MPE site. Further, the Concept Plan limits TEU throughput on the MPE site to 250,000 TEU unless a subsequent application demonstrates that traffic movements from an increased in TEU will not exceed the capacity of the transport network. This does not mean that roadworks were not required to be delivered as part of applications on the site where TEU throughput does not exceed 250,000; rather, the Concept Approval requires that all future applications consider traffic and transport impacts and associated mitigation measures. Consequently, the upgrade of Moorebank Avenue to four lanes between Anzac Road and the IMEX Terminal main access point was considered in the assessment of the MPE Stage 2 application for warehousing development and was found to be necessary to be delivered as part of that development, irrespective of any changes to TEU throughput on the Stage 1 site.

TfNSW have also confirmed that the Applicants assessment to justify the proposed timing of the roadworks is incorrect, noting traffic impact assessment in the MPE State 2 application was based on the traffic generation and traffic impacts from warehousing, not on the TEU throughput from the MPE Concept Approval. Both TfNSW and Council raised concerns with the proposed removal of links to the occupation of the warehouses, which Council also noted were assessed in the original SSD application as generating traffic and necessitating the required roadworks.

The Department therefore is satisfied that the need for the roadworks to be delivered to manage the traffic outcomes in associated with the Stage 2 development have been clearly established. Any delay to the road upgrades would result in some traffic impacts, regardless of TEU throughput, both as a result of background traffic growth and as a result of additional traffic generated by any additional warehousing on the site.

The proposed modification would effectively enable the warehouse GFA to triple to 300,000m² before the roadworks would be delivered. This may result in approximately 564 truck trips (2 way) and 3,993 car trips (2-way) traveling to and from the site each day on the non-upgraded two-lane road, as opposed to approximately 188 truck and 1331 daily car trips likely to travel on the road from the site

under the current approval where occupation is limited to 100,000 m² GFA. Background traffic traveling on the upgraded road is also likely to initially increase, although the Department acknowledges that once the Moorebank Avenue Realignment is constructed, local through traffic will be removed from the roadway and traffic demand will be limited to vehicles associated with the Intermodal Precinct only.

Therefore, in the absence of any further traffic assessment from the Applicant to support a delay to the provision of the road upgrade works, the Department continues to rely on TfNSW's original advice that the works are required prior to occupancy exceeding 30% of the warehousing. The Department therefore considers a significant delay to the delivery of the roadworks should not be supported, as it may result in adverse and unacceptable traffic outcomes contrary to the intention of the original approval.

However, as discussed in **Section 6.1**, allowing warehousing GFA to increase from 100,000m² to 132,000m² prior to delivery of the upgrade, would be likely to only result in relatively minor traffic impacts (an additional 60 truck movements and 426 car trips two way per day). The Department considers this is acceptable and would balance the practical need to minimise disruption to existing businesses already operating on the site with the need to manage adverse traffic outcomes. The Department considers that these minor changes to traffic impacts can be appropriately managed by amending existing traffic management plans required under the conditions of consent.

The Department therefore recommends the consent condition be amended to reflect that the roadworks are to be delivered prior to any additional warehousing beyond the existing 132,000m² occupied on the site, as set out below.

Safety and road management impacts

TfNSW initially raised a number of concerns in relation to potential traffic safety impacts arising from a delay to the Moorebank Avenue upgrade works. Key concerns related to the management of heavy vehicle movements and to ensure safe arrangements are in place until the upgrade works are completed. Additional information on safety and mitigation measures were requested to be provided by the Applicant, but were never received, and therefore consideration was given a new condition that would require additional information to be provided. However, TfNSW has subsequently confirmed that these matters have now been resolved, as the temporary diversion road associated with the Moorebank Avenue upgrade works has since been approved and constructed.

Further, the Department is satisfied that allowing an additional 32,000m² of GFA on the site, prior to completion of the works is unlikely to result in material adverse traffic safety impacts compared to traffic safety impacts of the permitted 100,000m² of GFA able to be provided on the site prior to completion of the works.

TfNSW also questioned if the modification would result in the need for an Operational Traffic Management Plan (OTMP) (required under condition B26) to be updated. Given the modification would result in additional interim traffic movements on Moorebank Avenue prior to the upgrade works, compared to the number of movements envisaged by the consent as approved, the Department supports amendments to the traffic management plans required under the conditions of consent. The Department notes that determination of the modification would trigger the existing condition C9 which requires management plans to be updated, where necessary, following a modification.

Design approval timing

It is considered that the timing of the required design approval should be altered to reflect occupation to 132,000m², to bring the consent in line with the current occupation of warehousing on the site.

Recommended condition

The following changes to the table in Condition B13 are therefore recommended:

Moorebank Avenue Upgrade , being the upgrade of Moorebank Avenue to four lanes between Anzac Avenue and the IMEX Terminal Main access point	<ul style="list-style-type: none">Indicative layout provided by Applicant, subject to design development and approval by RMS, and incorporating a bicycle/pedestrian share lane	To be obtained within 12 months of the date of this consent, or prior Prior to the issue of the first Occupation Certificate for warehousing whichever is the sooner in excess of 132,000m² on the site	Prior to issue of an Occupation Certificate for warehousing in excess of 400,000m² 132,000m² of gross floor area
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6.4 Other proposed changes

6.4.1 Proposed changes to condition B13

In addition to the changes to the table specifying the timing requirements for the road upgrades discussed above, the Applicant is also seeking a further change to the condition, specifying that the upgrades are required, '**unless otherwise agreed by the Planning Secretary**'. This would effectively enable the Applicant to request the Planning Secretary make changes to the upgrade requirements (including deletion of the requirements) without a modification application.

TfNSW advised it does not support this change, noting it is the relevant authority responsible for approving road designs, works authorisation and delivery, and it is unclear what the intention of the modification is.

The Department does not support the proposed change, and considers that any further changes to the road upgrade requirements should be subject to the rigorous statutory assessment, input from relevant stakeholders (including TfNSW) and publicly visible modification assessment process that currently must be applied to apply to any changes sought by the Applicant.

Council also recommended changes to Condition B13 to specifically identify the timing for the WADs relative to each intersection / upgrade works. The Department considers the requirement and relevant timing for the WADs is covered by Condition B14 and there is no need to further amend Condition B13 in this regard.

Council also recommended changes to identify that the 132,000m² referred to in the recommended condition is the existing amount of GFA currently approved on the site. A note has been added to Condition B13 to this effect.

6.4.2 Proposed change to condition B14

It is proposed to amend condition B14 to clarify that Works Authorisation Deed(s) (WADs) are only needed '**where required**' by TfNSW and to change the timing for the required date of the execution for the WADs, to be consistent with the timing for the 100% design approval under Condition B13.

TfNSW raised concern with the inclusion of 'where required', confirming that a WAD is required for all of the upgrade works listed in condition B13.

The Department therefore agrees with TfNSW that the words 'were required' should not be included, but supports the remaining changes to the condition as they ensure consistency with condition B13.

7 Evaluation

The Department has reviewed the proposed modification and RtS and assessed the merits of the modified proposal. The Department is satisfied that with the recommended conditions. Although the proposed changes may result in minor environmental impact, and therefore a minor change to the development, the Project remains substantially the same development as per the original approval.

The Department concludes the following:

- the Department has assessed the application and followed relevant procedures in accordance with the EP&A Act and the Regulations
- the proposed modification does not change the use of the site
- the proposal is in the public interest.

The Department's assessment concludes that, subject to changes, the proposed modification is appropriate. This conclusion is based on the fact the proposal is substantially the same as originally approved, the proposed modifications do not change the nature of the proposed development or affect the final form of the required road upgrades, and subject to the Department's recommended conditions, the impacts would be minor and acceptable.

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

8 Recommendation

It is recommended that the Director, Infrastructure Management, as delegate of the Minister for Planning:

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

Recommended by:

Lee McCourt
Team Leader
Infrastructure Management

9 Determination

The recommendation is **Adopted** by:

A handwritten signature in blue ink, appearing to read 'Jake Shackleton', written in a cursive style.

Jake Shackleton

Director

Infrastructure Management

as delegate of the Minister for Planning

10 Appendices

Appendix A – List of referenced documents

1. Modification Report

<https://www.planningportal.nsw.gov.au/major-projects/project/12316>

2. Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/12316>

3. Response to Submissions and Amended Modification Application

<https://www.planningportal.nsw.gov.au/major-projects/project/12316>

Appendix B – Instrument of Modification

<https://www.planningportal.nsw.gov.au/major-projects/project/12316>

Appendix C – Consolidated Consent

<https://www.planningportal.nsw.gov.au/major-projects/project/12316>