

## An aerial photograph overlaid with a planning map. The map shows several rectangular lots outlined in black. Lot 1 is centrally located and labeled 'LOT 1 DP 1107707'. To its right is a large white-shaded area labeled 'SUBJECT SITE LOT 1 DP 108943'. Further right are two more lots: 'LOT 2 DP 1107707' and 'LOT 3002 DP 1120030'. Below Lot 1 is 'LOT 2 DP 1107707'. To the left of Lot 1 is 'LOT 4 DP 1120037'. Further left is 'LOT 4 DP 1100343'. Below that is 'LOT 103 DP 1143027'. Further down is 'LOT 102 DP 1143022'. At the bottom left is 'LOT 101 DP 1143020'. To the right of Lot 101 is 'LOT 104 DP 1143027'. Below Lot 104 is 'LOT 103 DP 1143027'. At the very bottom left is 'LOT 6 DP 833916'. To the right of Lot 6 is 'LOT 5 DP 833916'. Above Lot 5 is 'LOT 35 DP 517319'. To the right of Lot 5 is 'LOT 31 DP 516609'. Below Lot 31 is 'LOT 91 DP 1105062'. To the right of Lot 91 is 'LOT 1 DP 1361150'. Above Lot 91 is 'LOT 4 DP 1107707'. To the right of Lot 4 is 'LOT 1 DP 825302'. At the bottom center is 'LOT 1 DP EX-1001'. To the right of Lot 1 is 'LOT 2 DP EX-1001'. At the bottom right is 'LOT 3 DP EX-1001'. A red dashed line outlines the 'SUBJECT SITE'. A blue line representing a creek or river runs along the left side of the map. A road labeled 'WY SOUTH WESTERN HIGHWAY' runs horizontally across the top. Another road labeled 'BAYVIEW PARKWAY' runs horizontally across the bottom. Various other lot numbers and DP codes are scattered throughout the map, indicating existing or planned developments.

November 2015

## 1. INTRODUCTION

This report is an assessment of a request to modify the Concept Plan Approval (MP 10\_0193) for the SIMTA intermodal facility at Moorebank. The site is in the Liverpool local government area.

The request has been lodged by the Proponent pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The application (MOD 1) seeks to include three additional lots within the intermodal site and rail corridor. MOD 1 also seeks to remove the requirement for the proponent to enter into a Voluntary Planning Agreement (VPA) with the relevant authority in relation to changes to the 901 bus route and relocation of bus stops.

## 2. SUBJECT SITE

The subject site is located along the eastern side of Moorebank Avenue. The site includes 19 land parcels and is relatively flat measuring 1,382 metres long by 600 metres wide. The Department of Defence currently leases the land for use as the Defence National Storage and Distribution Centre, comprising of 238,000m<sup>2</sup> of low-rise warehouse and administration buildings. The site is adjacent to a 200 hectare industrial precinct to the north and the former School of Military Engineering (SME) site to the west. The M5 Motorway/Moorebank Avenue interchange is approximately 800 metres to the north and the Southern Sydney Freight Line (SSFL) is approximately one kilometre to the west. A number of residential suburbs are located in proximity to the site, including Wattle Grove (east), Moorebank (north-east), Casula (west) and Glenfield (south-west) (see **Figure 1**).

## 3. APPROVAL HISTORY

### **Concept Plan**

On 29 August 2014, the Commission granted Concept Plan Approval for the redevelopment of 83 hectares of industrial zoned land for use as an intermodal facility. The Concept Plan includes an intermodal terminal facility, rail corridor, warehouse and distribution facilities, and a freight village. Freight would arrive from Port Botany via the existing SSFL, be transported to on-site warehouse and distribution facilities, or loaded onto trucks for transport to nearby logistics centres. The Concept Plan includes the following three stages of development:

1. construction of the intermodal terminal facility and rail link;
2. construction of warehouse and distribution facilities; and
3. extension of the intermodal terminal and completion of warehouse and distribution facilities.

The Commission limited the approval to an annual throughput of 250,000 TEUs (containers) per annum for the Stage 1 development application, with increases of up to a total of 500,000 TEUs per annum to be considered as part of subsequent development applications (DAs). This limit was imposed in response to concern about the existing transport, with increased freight volume, and uncertainty of future traffic impacts and proposed mitigation measures.

### **SIMTA Stage 1 Application**

The Department is currently assessing a State Significant Development application for SIMTA Stage 1, which was lodged on 27 October 2014. The application seeks approval for the construction and operation of a truck processing, holding and loading area; rail loading and container storage areas; the rail link connecting to the SSFL; and associated ancillary facilities.

### Moorebank Intermodal Terminal

The Department is currently undertaking an assessment of a staged SSD application for an intermodal terminal on the neighbouring SME site, known as the Moorebank Intermodal Terminal. The Planning Assessment Commission (the Commission) has indicated a preferred approach of developing both sites as a single intermodal facility.

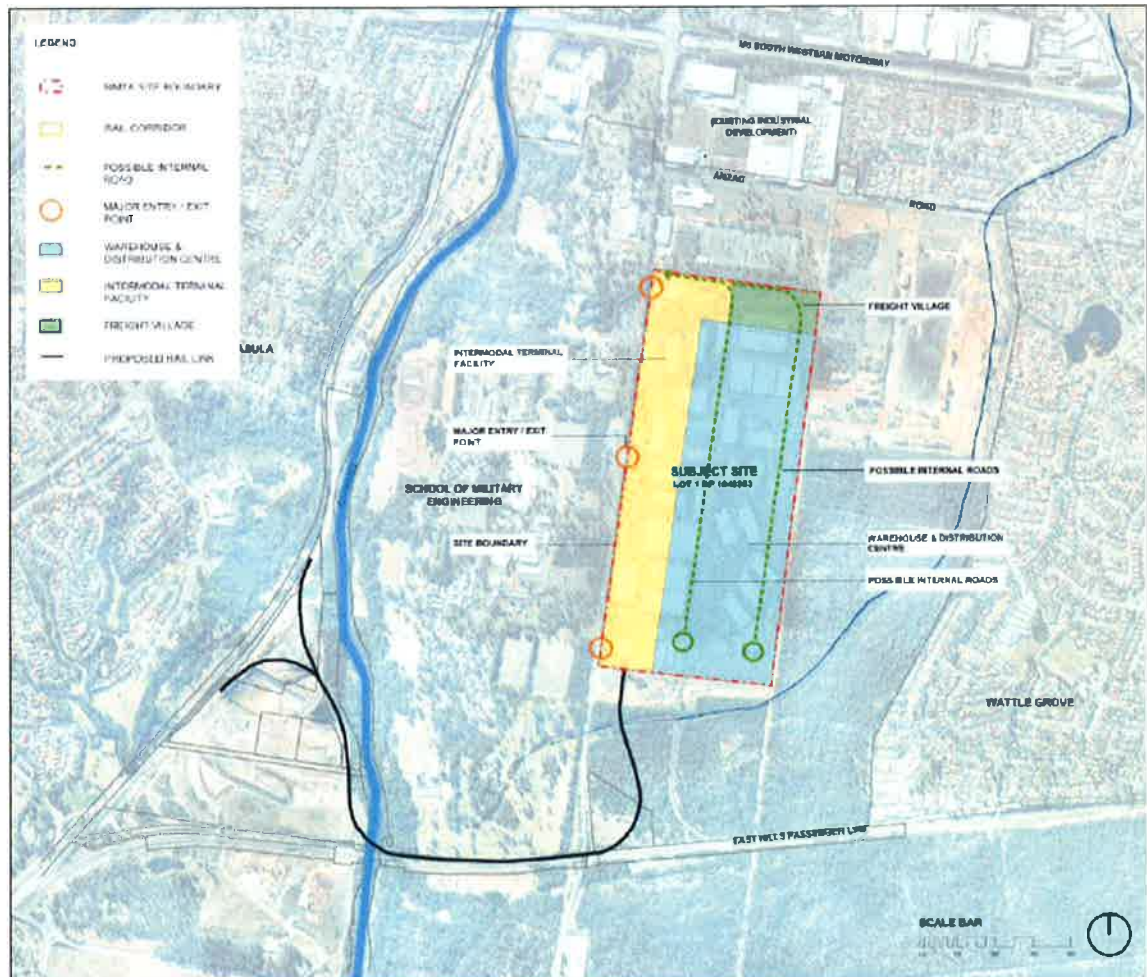


Figure 1. Site Location (SIMTA Concept Plan EIS, 2013).

## 4. PROPOSED MODIFICATION

On 13 May 2015, the Proponent lodged a section 75W modification application (MP 10\_0193 MOD 1) seeking approval to modify Schedule 1 and Conditions 1.8 and 1.9 of Schedule 2 of the Concept Plan Approval, as well as the revised Statement of Commitments (SoC). The modification is requested on the basis that additional sites are required to accommodate the scope of the SIMTA Stage 1 proposal. These sites were omitted from the Concept Plan Approval as a result of an administration error on the Proponent's behalf. Furthermore, the requirement to enter into a Voluntary Planning Agreement does not fit within the framework of Planning Circular 2008-017.

### **Schedule 1 of the Concept Plan Approval**

Schedule 1 of the Concept Plan approval includes a description of land on which the SIMTA project is to be developed. The Proponent has requested that three additional parcels of land be included in the Schedule, including:

- Lot 1 in DP 1130937, located adjacent to the Southern Sydney Freight Line within the Main Southern Corridor and owned by Rail Corp (Sydney Trains);
- a Crown Road, located within the Glenfield Waste Facility to the immediate west of the Georges River and owned by Crown Lands (Department of Trade and Investment); and
- the public road reserve of Moorebank Avenue (located to the north of Anzac Road).

A map of the site showing the additional lots and DPs is shown in **Figure 2**.

### **Schedule 2 of the Concept Plan Approval**

#### Condition 1.8

Condition 1.8 of the Concept Plan Approval stipulates that, in determining the TEU limit, the consent authority may consider any roadworks or mitigation measures proposed under a VPA to minimise traffic impacts.

#### Condition 1.9

Condition 1.9 stipulates that, prior to the determination of any future DA pursuant to the Concept Plan, the Proponent is required to enter into a VPA with the relevant authority for the terms listed under the heading 'Infrastructure Delivery' within the revised SOC, except for terms relating to road infrastructure upgrades. The VPA is required to investigate possible changes to the 901 bus route including frequency, stop locations and route "*prior to obtaining planning approval for the first stage of works (including the rail link)*".

On 17 March 2015, the Proponent submitted to the Secretary a letter confirming that it was willing to enter into a VPA and enclosing the initial terms of the VPA for changes to the 901 bus route.

The Department has since advised the Proponent that the current infrastructure contribution framework does not allow the government to levy contributions related to bus services. Instead the government is required to bear the costs of bus service provision (as per Planning Circular 2008-017) (see **Appendix D**). As such, the Proponent is unable to meet this condition. The Department subsequently recommended that the Proponent should seek a modification to the Concept Plan Approval to remove the requirement to enter into a VPA for the changes to the 901 bus service (this application).

Additionally, Condition 1.9 includes a notation which states that the nature of road infrastructure upgrades is to be determined at the DA stage. This allows for greater flexibility in the nature of the upgrades required, which may prove to be different from what is proposed in the revised SOC.

#### Proposed Modification to Schedule 2

Following the Department's advice, the Proponent now seeks to modify Schedule 2 of the Concept Approval in order to delete Condition 1.9, with the exception of the notation that provides flexibility around road infrastructure upgrade requirements. The notation is proposed to be moved to Condition 1.8, to maintain the flexibility allowed around the issue of road infrastructure upgrades.





### **Revised Statement of Commitments**

Under the heading 'Infrastructure Delivery', the revised SoC requires that the Proponent enter into a VPA with relevant authorities to facilitate the delivery of a number of works prior to obtaining planning approval for the first stage of works (including the rail link). Works included within the 'Infrastructure Delivery' commitment include the:

- upgrade of the Moorebank Avenue / M5 Motorway interchange;
- upgrade of Moorebank Avenue between Anzac Road and the southern entrance to the site to four lanes;
- provision of a new traffic signal at SIMTA's northern access on Moorebank Avenue;
- provision of a new traffic signal 750 metres south of the central access to the site;
- other parts of the site that will be upgraded, embellished, constructed or dedicated to the Commonwealth, Transport for NSW or the relevant Council that is directly attributable to the carrying out of the proposal; and
- investigating possible changes to the 901 bus route, including frequency, stop locations and route.

The deletion of Condition 1.9 would lead to the removal of the need for the Proponent to enter into a VPA relating to road infrastructure upgrades and changes to the 901 bus route. As a consequence, the Proponent also proposes to modify the revised SoC in order to delete the commitment under the heading 'Infrastructure Delivery' to enter into a VPA prior to obtaining planning approval for the first stage of works. The request seeks to delete the entire commitment, including the requirement to enter into a VPA for works involving improvements to transport infrastructure.

## **5. STATUTORY CONTEXT**

### **5.1 Section 75W**

The project was originally approved under Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act). Although Part 3A was repealed on 11 October 2011, the project remains a 'transitional Part 3A project' under Schedule 6A of the EP&A Act, and hence any modification to this approval must be made under the former Section 75W of the Act.

The Department is satisfied that the proposed changes are within the scope of section 75W of the EP&A Act, and do not constitute a new application.

### **5.2 Approval Authority**

On 14 September 2011, the then Minister for Planning delegated functions under Section 75W of the EP&A Act to modify Part 3A approvals to the Planning Assessment Commission.

The Development Assessment Protocol requires that transitional Part 3A applications (including modifications) be referred to the Commission for determination in cases where:

- the local Council has made an objection to the modification; and/or
- a reportable political donation has been made; and/or
- there are more than 25 submissions by way of objection by members of the public.

Liverpool City Council objects to the proposed modification. Consequently, the modification application is referred to the Commission for determination.

## 6. CONSULTATION AND SUBMISSIONS

Under section 75X(2)(f) of the EP&A Act and clause 8G of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation), the Secretary is required to make modification requests publicly available.

On 14 August 2015, the modification application was placed on the Department's website. In addition the Department consulted with Transport for NSW and Liverpool City Council. There were no public submissions received on the proposal.

**Transport for NSW** did not object to the proposed modification, and conditionally agreed to the incorporation of land within the Cumberland and South Line corridor (which also hosts the SSFL).

**Liverpool City Council** objected to the proposed modification to bus services, noting that removing the commitment for the Proponent to enter into a VPA would result in cost implications for government regarding changes to the frequency and route of the 901 service. Council also objected to the modification of the revised SoC, arguing that removing the entire 'Infrastructure Delivery' commitment would result in delays to required transport improvement works. Council did not raise any objection to the proposed modification to land description in Schedule 1.

## 7. ASSESSMENT

In its assessment of the modification request, the Department has considered the following:

- the Environmental Assessment (EA) provided to support the proposed modification, and the existing SIMTA Concept Plan Approval and Revised Statement of Commitments (see **Appendix B**);
- both submissions received by the Department (see **Appendix C**);
- advice provided to the Proponent by the Department regarding the need for a VPA on 17 March 2015 (see **Appendix D**); and
- the Department's Recommendation and the Commission's assessment report for the original Concept Application.

The Department considers the key issues associated with the proposed modification are:

- reference to additional lands; and
- delivery mechanism for the provision of transport infrastructure upgrades, including changes to the 901 bus service.

These key issues are assessed in **sections 7.1** and **7.2** of this report.

### 7.1 Identification of Additional Affected Land

The proposal seeks to modify the land described as 'rail corridor' within Schedule 1 of the Concept Plan Approval to include Lot 1 in DP 1130937 (located within the Main Southern Corridor), a Crown Road (located within the Glenfield Waste Facility) and the public road reserve of Moorebank Avenue (located to the north of Anzac Road).

The Department has considered the addition of the three land parcels and recommends that this modification is acceptable as it proposes only a minor change to the Concept Plan Approval. The parcels of land contained within the Crown Road and Lot 1 in DP 1130937 were previously shown as being within the 'rail corridor' identified within SIMTA's Concept Plan Application; however they were not specifically listed within the Concept Plan EA.

Whilst the parcel of land within the Moorebank Avenue public road reserve was not referenced within the Concept Plan Approval, the land is required to be developed for the purposes of connecting the SIMTA site to utilities (sewer). The Concept Plan EA did identify that an extension to the existing sewer infrastructure would be required, the details of which were to be determined

during detailed design in consultation with Sydney Water. The Department considers that the need for utilities connection justifies the requested modification to include the road reserve within Schedule 1 of the Concept Plan Approval.

On 22 February 2013, prior to the issue of the Concept Plan Approval, the then Director-General designated the SIMTA Project as 'a project on land which has multiple landowners' in accordance with clause 8F(1)(e) of the EP&A Regulation. This designation continues to have effect pursuant to clause 3(2)(b) of the Schedule 6A of the EP&A Act. As such, the Department advises that landowners consent is not required for the inclusion of the parcels of land within Schedule 1 of the Concept Plan Approval as part of the modification application.

## **7.2 Delivery of Transport Infrastructure Upgrades**

The Department has assessed the request to remove Condition 1.9, Schedule 2 of the Concept Plan Approval and advises that, in accordance with Planning Circular 2008-017, the current infrastructure contribution framework does not allow Government to levy contributions related to bus services. Instead the Government will bear the costs of service provision. This is consistent with the advice given by the Department to the Proponent on 17 March 2015 (Appendix D). The Department supports the request and recommends that Condition 1.9 be deleted, subject to recommended changes to Condition 1.8 as described below.

The Proponent and Transport NSW have also requested that the notation found in Condition 1.9 be carried into Condition 1.8. The notation advises that assessments at the DA stage will determine the nature and timing of these upgrades, and that these may prove to be different from what is proposed in the revised SoC. The Department acknowledges that the flexibility given within the Concept Plan Approval is important, and therefore recommends that the notation, in a modified form, be included in a modified Condition 1.8.

The Department has also assessed the request to modify the revised SoC to remove the terms under the heading 'Infrastructure Delivery'. These terms require the Proponent to enter into a VPA with relevant authorities to facilitate the delivery of a number of works prior to obtaining planning approval for the first stage of works (including the rail link). The scope of the VPA would cover works relating to transport infrastructure upgrades, as well as changes to the frequency, stop location and route of the 901 bus route.

The Department considers that the removal of the 'Infrastructure Delivery' section relating to the 901 bus route would not negate the requirement for the Proponent to consider the provision of bus services to the site. This is because the 'Transport and Access' section of the revised SoC requires that the Proponent consults relevant bus service provider(s) regarding the potential to extend the Route 901 bus through the site.

In addition, the 'Transport and Access' section of the revised SoC requires that the Proponent commits to negotiating with the relevant agencies/authorities to facilitate the staged delivery of road infrastructure upgrades. This may include new signalised intersections, Moorebank Avenue widening, M5 Motorway interchange adjustments and other road upgrades in accordance with the Transport Accessibility Impact Assessment. As a result, the Department considers that the request to remove the 'Infrastructure Delivery' section of the revised SoC in relation to transport infrastructure works would not result in an unacceptable deviation from the infrastructure delivery requirements of the original Concept Plan Approval. In this regard, the Department does not object to the removal of the 'Infrastructure Delivery' section of the revised SoC.

The Department has recommended the inclusion of a modified Condition 1.8 to better capture the proposed future infrastructure upgrade works (which are likely to be based on the regional modelling currently being undertaken by TfNSW and RMS). Should the Applicant seek to increase the TEU limit to 500,000, this condition would require the consent authority to take into account any roadworks or mitigation measures proposed, including the measures listed in the revised SoC under the heading 'Transport and Access'.



## 8. CONCLUSION

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's considers that the proposed modification is reasonable and will not result in any additional environmental impacts.

It is recommended that:

- the modification to include additional land parcels within Schedule 1 of the Concept Plan Approval be approved;
- the request to modify Condition 1.8 be approved, subject to changes;
- the modification request to remove Section 2, Condition 1.9 be approved; and
- the Department not object to the proposed removal of the 'Infrastructure Delivery' section of the revised SoC.

## 9. RECOMMENDATION

It is RECOMMENDED that the Planning Assessment Commission, as delegate of the Minister for Planning:

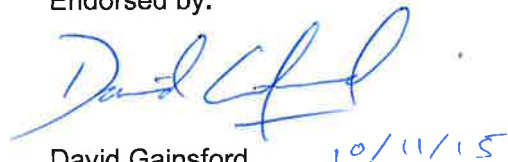
- **considers** the findings and recommendations of this report;
- **approves** the application under section 75W, subject to conditions; and
- **signs** the notice of modification (Appendix A).

Endorsed by:



Karen Jones  
Director  
Infrastructure Assessments

Endorsed by:



David Gainsford  
Executive Director  
Priority Projects Assessments

## **APPENDIX A    NOTICE OF MODIFICATION**

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