

Moorebank Precinct West - Concept Modification

Response to Submissions - SSD 5066 MOD1

Statement of Development Standard
Exception



SIMTA

SYDNEY INTERMODAL TERMINAL ALLIANCE

Part 4, Division 4.1, State Significant
Development

MPW CONCEPT MODIFICATION

Response to Submissions Report

Statement of Development Standard Exception

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CONTENTS

1 INTRODUCTION	5
1.1 Background	5
1.2 Purpose and Scope.....	5
2 DEVELOPMENT STANDARD TO BE VARIED	6
3 PROPOSED VARIATION AND JUSTIFICATION	7
4 CLAUSE 4.6 ASSESSMENT	8
4.1 Is the development standard unreasonable or unnecessary?	8
4.2 Are there sufficient environmental planning grounds to justify contravening the development standard?	10
4.3 Is the variation to the development standard in the public interest?	10
4.4 Consistency with the height of buildings (Clause 4.3) objectives	11
4.5 Consistency with zone (Clause 2.1) objectives	11
4.6 Does the variation to the development standard raise any matters of significance for state or regional environmental planning?	12
4.7 What is the public benefit of maintaining the development standard?	13
4.8 Are there any other matters required to be taken into consideration for this variation?	13
5 CONCLUSION	14

1 INTRODUCTION

1.1 Background

SIMTA are seeking approval to modify the Moorebank Precinct West (MPW) Concept Approval (SSD_5066) (MPW Concept Approval), which relates to the development of an intermodal terminal (IMT) facility, warehousing and rail infrastructure (MPW Project) on the western side of Moorebank Avenue, NSW (MPW site).

A Modification Proposal, provided in the Modification Report (Arcadis 2016) sought both a modification to the MPW Concept and Early Works (Stage 1 of the MPW Project) to accommodate the importation of fill to the MPW site.

The MPW Modification Proposal was publicly exhibited between 7 July 2016 and 22 August 2016. During the exhibition period submissions were invited from all stakeholders including members of the community and government stakeholders. A total of 371 public submissions been received, and 10 from government stakeholders.

As a result of submissions received during the public exhibition of the Modification Report, a Response to Submissions Report (RtS) has been prepared to respond to submissions raised by both community and government stakeholders during the exhibition of the MPW Concept Modification Proposal. The RtS Report also includes an Amended Modification Proposal.

The Amended Modification Proposal seeks only a modification under the MPW Concept Approval, to facilitate the importation of fill as part of the MPW Stage 2 Proposal (subject to separate approval), rather than the Early Works. The Amended Modification Proposal also includes a number of other minor modifications to facilitate the future stages of development for the MPW Project, including building heights.

The preparation of a Statement of Development Standard Exception Report is required to address the non-compliance of proposed building (warehouse) heights with the maximum building height specified by Liverpool Local Environment Plan (LLEP) 2008.

1.2 Purpose and Scope

This statement has been prepared to facilitate an exception to a development standard for the Amended Modification Proposal relating to Moorebank Precinct West (MPW).

This statement seeks an exception to clause 4.3, 'height of buildings' included within the *Liverpool Local Environmental Plan 2008* (LLEP 2013). This statement has been prepared in accordance with clause 4.6 of the LLEP 2008 which provides for exceptions to development standards, under special circumstances.

This statement has been prepared by Arcadis on behalf of SIMTA. It should be read in conjunction with the MPW Concept Plan Modification RtS Report.

2 DEVELOPMENT STANDARD TO BE VARIED

The development standard for which variation is sought is clause 4.3, 'Height of buildings' within the SLEP 2013. Clause 4.3 of the LLEP provides standards for the height of buildings within the Liverpool Local Government Area (LGA). Clause 4.3 states:

"(1) The objectives of this clause are as follows:

- (a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved,
- (b) to permit building heights that encourage high quality urban form,
- (c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,
- (d) to nominate heights that will provide an appropriate transition in built form and land use intensity.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

The Height of Buildings Maps (sheet HOB-013) of LLEP 2008 identifies MPW as being located on land with a permitted maximum building height of 21 metres.

The Dictionary included within the LLEP 2008 defines building height as:

- (a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or
- (b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

3 PROPOSED VARIATION AND JUSTIFICATION

The built form of the Amended Modification Proposal departs from the development standard set in clause 4.3, which restricts building heights (defined as the vertical distance from ground level (existing) to the highest point of the building) to 21 metres.

While no changes are proposed to the height of the built form (the maximum structural height of buildings will be maintained at 21 metres), the adjustment to the building formation beneath the warehouses and other built forms across the development would subsequently increase building heights, as defined in the LLEP 2008, to a height of up to 24.6 metres.

Progressive detailed design (i.e. “detailed engineering studies”) has determined that the importation of 1,600,000m³ of clean general fill is required to adjust the building formation level for the functionality of both below ground drainage and surface drainage internal to the MPW Project. This importation of clean general fill is to be placed, spread and compacted across the site, covering an area of approximately 150 hectares. Pre-development surface levels across the site are undulating, hence a varying depth of clean fill will be required to be placed across the site, to establish the required gradient for drainage functionality. In some places, the building formation level will be adjusted by 3.6 metres above pre-development, and in some cases no fill will be placed at all.

A detailed justification for the MPW Project, and the built form of the warehousing and other structures, is provided in Section 7 of the MPW Concept EIS (PB 2015). The MPW Concept Approval allows for the development of up to 300,000m² of warehousing, which will provide the interface between the IMT and users of the facilities such as freight forwarders, logistics facilities and retail distribution centres. Structural buildings heights of 21 metres maximises the effective and flexible use of warehouses within the MPW site, which will be utilised by freight forwarders, logistics facilities and retail distribution centres.

Overall, the Amended Modification Proposal and the associated built form, is considered consistent with the approved concept proposal, which provided for ‘warehouse and distribution facilities’. Additionally, a Visual Impact Assessment (VIA - refer to Appendix C of this RtS Report) has been carried out to determine potential impacts on increased building heights, and included consideration of the built form of the terminal and warehouse buildings such as height, bulk, scale, view loss and visual amenity. The assessment concluded that increased building heights would not result in changes to the visual impact levels assessed in the MPE Concept EIS.

4 CLAUSE 4.6 ASSESSMENT

This statement of variation has been prepared in accordance with the requirements of clause 4.6 of the LLEP 2008. Clause 4.6 (3) of the LLEP 2008 states that: *development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

In addition to this, clause 4.6 (4) of the LLEP 2008 states that *development consent must not be granted for development that contravenes a development standard unless:*

- (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Secretary has been obtained.*

Further, clause 4.6 (5) provides guidance to the Director General (now referred to as the Secretary of Planning and Environment) when deciding to grant concurrence for the variation of the development standard, including:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.*

These items are addressed below.

4.1 Is the development standard unreasonable or unnecessary?

The development standard requires a maximum building height of 21 metres, which is defined under the LLEP 2008 as from the existing (pre-development) ground level. In consideration of the location of the MPW site and the strategic nature of the MPW Project, this development standard is considered unreasonable and unnecessary in relation to the Amended Modification Proposal.

Overall, the structural building height would not be increased, however the placement of fill beneath buildings will increase the overall built form when measured from the existing ground level to a height of up to 24.6 metres.

A Visual Impact Assessment (VIA) has been carried out for the proposed increased building height (refer to Appendix C of the RtS Report). The purpose of the VIA was to identify and assess visual impacts arising as a result of the Amended Modification Proposal in addition to those considered in the existing MPW Concept Approval, which included consideration of the built form of warehouse buildings such as height, bulk, scale, view loss and visual amenity.

The VIA assessed specific visual impacts from key viewpoints as identified as part of the MPW Concept Plan Approval (SSD 5066) analysis. Each view specifically evaluated the impact as a result of the additional height being from existing ground level proposed as part of the Amended Modification Proposal, as summarised below.

Leacock Regional Park

The VIA (refer to Appendix C of the RtS Report) includes two separate views from Leacock Regional Park.

View 01: The MPW Concept Approval assessed the setting of this view point as being partially screened by retained riparian and has views of the tops of warehouses above the tree canopy and the new rail spur in the foreground. The MPW Concept Approval assessed the visual impacts from this view point as being moderate.

There remains limited visibility of the Amended Modification Proposal due to the screening provided by existing vegetation and distance from the site. The visual amenity would not change significantly as a result of the additional height proposed. As such the Amended Modification Proposal has no greater impact than that proposed under the MPW Concept Plan Approval and therefore the visual impact rating of moderate is unchanged.

View 02: The MPW Concept Approval assessed the setting of this view point, which looks east toward the MPW site, as being from an elevated location which sits above the MPW site overlooking vegetation in the foreground, the Georges River, and more vegetation beyond. The MPW Concept Approval assessed the visual impacts from this view point as being moderate/high.

From this location, the Amended Modification Proposal would not significantly change the impact of the current proposed development and as such the Amended Modification Proposal has no greater impact than that proposed under the MPW Concept Plan Approval and therefore the visual impact rating of moderate/high is unchanged.

Carroll Park

The VIA (refer to Appendix C) noted that the MPW Concept Approval assessed the setting of this view point as having extensive views over the site and visibility of warehouses that protrude above the tree line, with some screening offered in the foreground and middle ground. As such, MPW Concept Approval considered the visual impacts from this view point to be moderate/high.

Due to its proximity to the site and existing vegetation at the view point continuing to obstruct some receivers' views of the MPW site, the Amended Modification Proposal would not change the visual impact of that previously assessed in the MPW Concept Approval and as such the visual impact rating of moderate/high is continues to be appropriate for the Amended Modification Proposal.

In summary, the VIA concluded that increased building heights would result in visual impacts for the Amended Modification Proposal that are consistent with those already assessed as part of the Concept Approval. As described in the Concept EIS, land use to the north of the site is generally characterised by industrial and commercial land uses, while to the east, land use is predominantly industrial and commercial, with extensive Defence land further east (including the Holsworthy Military Area to the south-east of the Project site). Land use immediately east of Moorebank Avenue and north of Anzac Road includes the privately-owned Moorebank Business Park. The areas west and north-west of the Georges River (west of the MPW site) mark a transition to low-density residential development and associated commercial developments and community facilities within the suburbs of Casula and Liverpool. Increasing buildings heights within this mosaic of industrial and commercial land use is not considered a significant increase.

In summary, given the surrounding land use and the conclusion of the visual impact assessment, the development standard for building height is considered

unreasonable and unnecessary and has the potential to reduce the effective use and function of the built form within the MPW site.

4.2 Are there sufficient environmental planning grounds to justify contravening the development standard?

The MPW Concept EIS provides specific comment on the impacts of the MPW project, in particular the built form and warehouses, including proposed building height, from both an environmental and planning perspective. In summary, the variation to the development standard, i.e. building height non-compliance, is considered justified in consideration of the following:

- The structural height of the built form and warehouses themselves; remains unchanged from the building formation level and the increase in height is due to the placement of clean general fill beneath the built form.
- The VIA prepared by Reid Campbell for the Amended Modification Proposal (Appendix C of the RtS) determined that the increased building height would generally result in consistent visual impacts already identified and assessed as part of the existing MPW Concept Plan Approval.
- The function of the warehouse and other built forms would not be altered, and therefore when operational, would not result in any adverse impacts on the acoustic amenity of the residential sensitive receivers.
- The building setbacks for warehouses and other built forms would be designed in accordance with the conditions of consent and they would therefore be sensitively integrated into the immediate urban environment.

The proposed variation from the development standard is therefore considered sufficient and justified on environmental planning grounds and complies with clause 4.6(3)(b) of the LLEP 2008.

4.3 Is the variation to the development standard in the public interest?

As discussed in Section 24 of the MPW Concept EIS, the Proposal will have major public interest benefits for Sydney. These include:

- **Employment:** the project will result in the generation of additional temporary (during construction) and permanent jobs (during operation) on-site.
- **Environmental performance:** the project includes a number of mitigation measures relating to noise, air quality, traffic and transport, biodiversity, soil and water, waste management, hazards and risks and fire incident management all of which will be implemented during both the construction and operational phases to ensure that there is minimal adverse impact on the surrounding natural environment and public amenity (refer to the Concept EIS for details)
- **Traffic:** during operation, the benefits of the Project would include relieving the regional Sydney road network of articulated vehicular traffic by shifting freight from road to rail
- **Economy:** during operation, economic benefits that will result from improved productivity, reduced operating costs, reduced costs associated with road damage, congestion and accidents.

The variation to the development standard maximises the effective and flexible use of warehouses and other built form on the MPW Project by freight forwarders, logistics

facilities, retail distribution centres and the IMT facility. It therefore supports the broader project benefits and their contribution to the public interest. The Proposal, and the variation to the development standard, is therefore considered to be in the public interest and complies with clause 4.6(4) (ii) of the LLEP 2008.

4.4 Consistency with the height of buildings (Clause 4.3) objectives

The objectives for clause 4.3 of the LLEP 2008 are provided in Section 2 of this report. Table 5-1 provides a summary of the consistency of the Proposal, in particular the non-complying buildings, with the objectives of clause 4.3. In summary, the Proposal, in particular the buildings which are non-compliant with the building height development standard, is consistent with the objectives of clause 4.3 and therefore clause 4.6(4) (ii) of the LLEP 2008.

Table 5-1: Consistency with Clause 4.3 objectives

Objective	Comment	Consistent?
(a) to establish the maximum height limit in which buildings can be designed and floor space can be achieved	The structural height of warehouses and other built form will be retained at 21 metres; the increase in height is due to the placement of clean general fill beneath the built form.	Yes
(b) to permit building heights that encourage high quality urban form	Urban design principles have been considered during the development of indicative concept layouts and reflected in the Project, as described in Section 22 of the Concept EIS and more recently in the next stage of detailed development applications.	Yes
(c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight	As the structural height of the buildings is not proposed to be altered, there would be no substantial change to the level of exposure of surrounding areas to the sky and sunlight.	Yes
(d) to nominate heights that will provide an appropriate transition in built form and land use intensity	Surrounding land use and intensity is described in Section 2 of the Concept EIS and includes a high proportion of industrial and commercial land uses. The alteration is to the building height measured from the existing ground level and would not change the appropriateness of transitions in built form and land use intensity.	Yes

4.5 Consistency with zone (Clause 2.1) objectives

Under the LLEP 2008, land within the MPW site is predominantly zoned as General Industrial land (IN1) for facilitating IMT and industrial warehousing.

Table 5-2 provides a summary of the consistency of the Proposal, in particular the non-complying buildings, with the objectives of clause 2.1 of the LLEP 2008. In summary, the Proposal, in particular the buildings which are non-compliant with the building height development standard when measured from the existing ground level, is consistent with the objectives of clause 2.1 and therefore clause 4.6(4)(ii) of the LLEP 2008.

Table 5-2: Objectives of General Industrial Zone

Objective	Comment	Consistent?
To provide a wide range of industrial and warehouse land uses.	The Concept Approval provides for the use of the site as an intermodal terminal facility, including a rail link to the Southern Sydney Freight Line, warehouse and distribution facilities, and associated works. The alteration in building height does not change the proposed uses.	Yes
To encourage employment opportunities.	Employment relating to construction and operation phases of the project are described in Section 24 of the Concept EIS. The alteration in building height does not change opportunities for employment.	Yes
To minimise any adverse effect of industry on other land uses.	The project includes a number of mitigation measures relating to noise, air quality, traffic and transport, biodiversity, soil and water, waste management, hazards and risks and fire incident management all of which will be implemented during both the construction and operational phases to ensure that there is minimal adverse impact on the surrounding natural environment and public amenity. The potential changes in visual impact resulting from the alteration in building heights has been assessed. No change is anticipated to the visual impact levels assessed in the MPW Concept EIS.	Yes
To support and protect industrial land for industrial uses.	Mitigation measures will be implemented to ensure that there is minimal adverse impact on the surrounding natural environment and public amenity. The alteration in building height does not change the proposed uses.	Yes
To particularly encourage research and development industries by prohibiting land uses that are typically unsightly or unpleasant.	Urban design principles have been considered during the development of indicative concept layouts and reflected in the Project, as described in Section 22 of the Concept EIS, to minimise unsightly or unpleasant use of the MPW site. The potential changes in visual impact resulting from the alteration in building heights has been assessed. No change is anticipated to the visual impact levels assessed in the MPW Concept EIS.	Yes
To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.	An administration development area will be provided, which would be separated from the terminals to provide a safer and more commercial style work environment for employees. The alteration in building height does not change the ability of the development to provide facilities or services that meet the needs of workers..	Yes

4.6 Does the variation to the development standard raise any matters of significance for state or regional environmental planning?

The Proposal, in particular the variation of the building height standard, will not raise any matters of significance for State or regional environmental planning. The Proposal has been designed to be consistent with State and regional planning legislation and policy.

Sections 3 and 4 of the Concept EIS provide further detail on the project's consistency and compliance with State and regional planning legislation and policy. In summary, the variation to the development standard included within the Proposal will implement and support state policy and legislation and therefore not raise any matters of significance for State or regional environmental planning. The Proposal therefore complies with 4.6(5)(a) of the LLEP 2008 is considered suitable for the concurrence of the Secretary (formerly the Director General).

4.7 What is the public benefit of maintaining the development standard?

As discussed in Section 5.3 of this report, the Proposal includes a considerable number of benefits to the public.

As the Proposal does not result in adverse impacts to the public, in particular with regard to visual impact or acoustic amenity, there would be no public benefit of maintaining the development standard.

4.8 Are there any other matters required to be taken into consideration for this variation?

No other matters are required to be taken into consideration for this variation to the development standard, pertaining to the maximum building height specified by LLEP 2008.

5 CONCLUSION

The MPW Concept Approval includes the construction and operation of an intermodal terminal facility, including warehouse and distribution facilities. This Amended Modification Proposal seeks a variation to the building height development standard (clause 4.3 of the LLEP 2008) in accordance with clause 4.6 'exceptions to development standards' of the LLEP 2008.

This report has been prepared to support the MPW Concept Plan Modification RtS Report, inclusive of the Amended Modification Proposal, which responds to submissions raised by both community and government stakeholders during the exhibition of the Modification Proposal that was publicly exhibited, in accordance with clause 83 of the *Environmental Planning and Assessment Regulations 2000* between 7 July 2016 and 22 August 2016.

This report shows that the Amended Modification Proposal, although including a variation from the building height development standard, provides a positive outcome which will be realised through maximising effective and flexible use of warehouses and other built forms associated with the intermodal terminal facility.

In consideration of the benefits provided within this Amended Modification Proposal, and the absence of changes to the categorisation of visual impacts from the MPW Concept EIS, as a result of this variation from the development standard, the requirements of clause 4.6 are considered to be satisfied.

