

Intermodal Logistics Centre at Enfield Environmental Assessment

CHAPTER 2

STATUTORY PLANNING

■ October 2005

Contents

2.	Statutory Planning	2-1
2.1	NSW Environmental Planning Requirements	2-1
2.1.1	State Environmental Planning Policies	2-1
2.1.2	Regional Environmental Plans	2-4
2.1.3	Local Planning Controls	2-4
2.1.4	Approvals Process	2-5
2.2	NSW Environmental Approvals	2-7
2.2.1	Protection of the Environment Operations Act, 1997	2-7
2.2.2	Roads Act, 1993	2-8
2.2.3	Waste Avoidance and Resource Recovery Act, 2001	2-9
2.2.4	Dangerous Goods Act, 1975	2-9
2.2.5	Rivers and Foreshores Improvement Act, 1948	2-9
2.2.6	Soil Conservation Act, 1938	2-9
2.2.7	Water Management Act, 2000 (and Water Act 1912)	2-10
2.2.8	Contaminated Land Management Act, 1997	2-10
2.2.9	Threatened Species Conservation Act, 1995	2-11
2.2.10	Noxious Weeds Act, 1993	2-11
2.3	Commonwealth Legislation	2-11
2.4	Summary of Approvals	2-12

2. Statutory Planning

Chapter 2 addresses statutory planning issues and describes the approvals that must be obtained under any Act or law before the development may be lawfully carried out.

This satisfies the Director-General's requirements relating to discussion of statutory planning instruments and the requirement of the EP&A Regulation to list any approvals to be obtained before the development or activity can lawfully be carried out.

2.1 NSW Environmental Planning Requirements

Development in NSW is subject to the requirements of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) and the *Environmental Planning and Assessment Regulation, 2000* (EP&A Regulation). Environmental planning instruments prepared pursuant to the Act set the framework for approvals under the Act.

2.1.1 State Environmental Planning Policies

The State Environmental Planning Policies (SEPPs) relevant to the site and the Proposal are described below.

State Environmental Planning Policy No 11 – Traffic Generating Developments (SEPP 11)

SEPP 11 aims to ensure that the Roads and Traffic Authority (RTA) is made aware of, and is given an opportunity to make representations in respect of traffic generating developments such as that proposed.

The proposed development will require the erection of a building for the purposes of industry where the gross floor area exceeds 20,000 m² and is therefore a type of development listed in Schedule 1 of SEPP 11. SEPP 11 provides that the consent authority shall refer the development application for Schedule 1 development to the RTA prior to determination of the application.

The RTA has been consulted during the preparation of this EIS and issues raised by the RTA have been considered in the preparation of the document.

State Environmental Planning Policy No 33 – Hazardous and Offensive Development (SEPP 33)

SEPP 33 includes the following aim within Clause 2:

“(e) to ensure that in considering any application to carry out potentially hazardous or offensive development, the consent authority has sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact...”¹

The carriage of dangerous goods through the intermodal terminal area of the proposed ILC may be considered as Potentially Hazardous. Part 3 of SEPP 33 contains provisions that apply to Potentially Hazardous Development. In particular, Clause 12 applies to the Preparation of a Preliminary Hazard Analysis, and provides that:

“A person who proposes to make a development application to carry out development for the purposes of a potentially hazardous industry must prepare (or cause to be prepared) a preliminary hazard analysis in accordance with the current circulars or guidelines published by the Department of Planning and submit the analysis with the development application.”

A Preliminary Hazard Analysis (PHA) using the *Hazardous Industry Planning Advisory Paper No. 6 - Guidelines for Hazard Analysis* (DUAP, 1997) and *Multi-Level Risk Assessment* (DUAP, 1997) has been undertaken and is described in Chapter 20 of the Environmental Assessment. The PHA concluded that provided the risks to operation are managed effectively to ensure that they are kept as low as reasonably practicable, the operation would satisfy the criteria specified in the guidelines.

State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)

SEPP 55 was gazetted to achieve the following objectives outlined in Clause 2 of the Policy: -

“(2) In particular, this Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment:

(a) by specifying when consent is required, and when it is not required, for a remediation work, and

(b) by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and

(c) by requiring that a remediation work meet certain standards and notification requirements.”

A soil contamination assessment has been carried out and is described in Chapter 9 – geology, Topography, Soils and groundwater and in Appendix C – Soil Contamination Issues. The contamination assessment identified that soil remediation in the area of the wagon repair shed (about

¹ Clause 3 of this Policy defines **potentially hazardous industry** as development for the purposes of an industry which may “pose a significant risk in relation to the locality: (a) to human health, life or property, or (b) to the biophysical environment” unless impact mitigation measures are employed. Clause 3 defines **potentially offensive industry** as development for the purposes of an industry which may “emit a polluting discharge (including for example, noise) in a manner which would have a significant adverse impact in the locality or on the existing or likely future development on other land” unless impact mitigation measures are employed.

1,250 m³) and DELEC facility (about 12,000 m³) should be conducted prior to site redevelopment to remove asbestos, heavy metal and hydrocarbon contaminated soil.

The rehabilitation of the site is not designated development as the volume of contaminated soil is less than 30,000 cubic metres and the area of disturbance is less than 3 hectares. Pursuant to clause 14 of SEPP 55 the remediation work is classified as Category 2 remediation work.

All remediation works will be carried out as Category 2 remediation work under SEPP 55 and in accordance with the *Managing Land Contamination: Planning Guidelines*, guidelines in force under the *Contaminated Land Management Act, 1997* and Strathfield Council's "*Policy for the Management of Development on Contaminated Land*".

Draft State Environmental Planning Policy No 66 – Integration of Land Use and Transport (SEPP 66)

The site is subject to the provisions of SEPP 66 which was exhibited between 14 September 2001 and 14 December 2001. The Aim (Clause 2) of this Policy is to ensure that urban structure, building forms, land use locations, development designs, subdivision and street layouts help achieve the following planning objectives:

- Improving accessibility to housing, employment and services by walking, cycling, and public transport;
- Improving the choice of transport and reducing dependence solely on cars for travel purposes;
- Moderating growth in the demand for travel and the distances travelled, especially by car;
- Supporting the efficient and viable operation of public transport services; and
- Providing for the efficient movement of freight.

Clause 7 of SEPP 66 addresses "Development to Which Planning Objectives Relate" and states that development to which any of the planning objectives of this Policy relate will generally comprise development having a gross floor space of more than 1,000 square metres, including warehouses and distribution centres and intermodal freight terminals. As such SEPP 66 applies to the proposed development.

Clause 9 applies to Development Applications and lists the matters for consideration in determining a development application. These include:

- Whether the development has considered transport implications listed in Clause 12 of the Policy, including a study of the traffic or other transport implications of the development application;
- Whether the development incorporates travel demand management mechanisms and features that will minimise the demand for travel and use of cars; and
- Whether the Director-General of Transport NSW or appropriate transport or planning agency has been consulted with regard to the proposal.

These issues are addressed in the Environmental Assessment.

State Environmental Planning Policy (Major Projects) 2005 (SEPP MP)

The aim of SEPP MP is to identify development to which the development assessment and approval process under Part 3A of the *Environmental Planning and Assessment Act, 1979* applies, and to facilitate the development, redevelopment or protection of important urban, coastal and regional sites of economic, social or environmental significance to the State so as to facilitate the orderly use, development or conservation of those State significant sites for the benefit of the State. Pursuant to clause 6 (1) (a) of SEPP MP, development described in Schedule 1 of SEPP MP are Part 3A projects.

The proposed development is listed in Schedule 1 Clause 23 (1) (b) of SEPP MP as it is development for the purposes of an intermodal terminal which has a capital investment value of more than \$30 million. The Minister for Planning has determined that this is a project to which Part 3A of the EP&A Act applies.

2.1.2 Regional Environmental Plans

No Regional Environmental Plans apply to the proposed development or the site.

2.1.3 Local Planning Controls

The proposed development will be undertaken on land owned by Sydney Ports Corporation, Railcorp and Strathfield Council.

The land owned by Sydney Ports which forms part of the development site is described as:

- Part Lot 2 DP1006861;
- Lot 101, DP1001498; and
- Lot 14 DP1007302.

In addition part of the proposed development, including construction of rail connections to the freight rail network, a noise wall and construction of a road bridge over the new Enfield Marshalling Yards for access to Wentworth Street will be undertaken on land owned by Railcorp. The land owned by Railcorp which forms part of the development site is located on:

- Lot 15 of DP1007302 (for noise wall construction and northern rail connection);
- Lot 1 of DP 950438 (for southern rail connection); and
- Lot 3 of DP1006861 and Lot 15 of DP1007302 (for road bridge).

Land owned by Strathfield Council (former Punchbowl Road reserve) over which rail connections will occur is described as:

- That section of Punchbowl Road Reserve between Cosgrove Road and Benaroon Road crossing 'Railway Land' as denoted on Sheets 2 and 3 of DP 242426.

Strathfield Planning Scheme Ordinance (PSO)

The development site, comprising the proposed ILC on Sydney Ports land, the noise wall construction and bridge works on the new Enfield Marshalling yards and some of the rail connections to the freight rail network, is located in Strathfield Local Government Area and is subject to the provisions of the PSO. The development site is zoned Special Uses “B” (Railways) (Special Use Zone) under the PSO. The PSO states that purposes for which buildings or works may be erected or carried out or used only with the consent of the responsible authority include “Any purpose”. In addition, there are no “prohibited uses” within the Special Use Zone. Hence, the proposed development is permissible with development consent in the Special Use Zone.

Draft Strathfield Local Environmental Plan 2003 (Draft LEP 2003)

Strathfield Council has prepared a Draft LEP 2003 which is yet to be gazetted.

The Sydney Ports land is shown in Draft LEP 2003 as a deferred matter. The adjoining land uses are generally consistent with the existing PSO zoning. The proposed development is consistent with the objectives of the Industrial Zone 4 and Special Uses (Railway) zone that adjoin the Sydney Ports land.

The Railcorp land upon which the noise wall, road bridge over the new Enfield Marshalling Yards for access to Wentworth Street and some of the rail connections to the freight rail network will be constructed is zoned 5C Special Uses (Railways) (Railway Zone) under Draft LEP 2003. The proposed development is consistent with the objectives of the Railway Zone.

The following development control plans prepared by Strathfield Council were considered in the development of the project concept:

- Development Control Plan No 23 – Development of Contaminated Land;
- Development Control Plan No 26 – Waste Management; and
- Development Control Plan No 27 – Industrial Development.

The intent of those DCPs was generally followed in the concept development of the site.

Canterbury Planning Scheme Ordinance (PSO)

The freight rail corridor (land owned by RailCorp) south of Punchbowl Road where some rail connections will be made is zoned Special Uses B Railways under the Canterbury PSO. Railway works in this zone are permissible without consent.

2.1.4 Approvals Process

Project Description

Approval is being sought for construction works associated with:

- Demolition, relocation or removal of former railway buildings and structures;
- Earthworks and drainage including the levelling of the site, formation of landscape mounds and detention basins and removal of unsuitable materials where required.

Approval is also being sought for the construction and operation of:

- An Intermodal Terminal for the loading and unloading of containers between road and rail and short term storage of containers;
- Railway lines, rail sidings and associated works to connect to the existing dedicated freight rail line;
- Warehousing, for the packing and unpacking of containers and short-term storage of cargo;
- Empty container storage facilities, for the storage of empty containers for later packing or transfer by rail;
- Light Industrial / Commercial use in the area fronting Cosgrove Road;
- A Community and Ecological Area which would provide the prospect of incorporating ecological enhancement and community opportunities. The area would also serve as a buffer between operations on the site and residences to the south of the site;
- Access works, comprising, construction of a road bridge over the new Enfield Marshalling Yards for access to Wentworth Street and an upgrade of the existing entrance to Cosgrove Road;
- On-site works, comprising the construction of internal roads, administrative buildings, diesel and LPG storage and fuelling, container washdown area, vehicle maintenance shed and installation of site services including all utilities, stormwater and sewerage; and
- Construction of a noise wall on land owned by RailCorp adjacent to Roberts Road.

Previous Approval Process

The environmental impact assessment for this proposal commenced in 2004 and was prepared under the requirements of Part 4 of the EP&A Act. The proposed development was designated under Schedule 3 of the EP&A Regulation and an EIS was required to be prepared to accompany the Development Application. Pursuant to Section 76A(7) of the EP&A Act and the Ministerial declaration of August 1999, the project was identified as of State significance, and the (then) Minister for Infrastructure and Planning was the consent authority.

A Planning Focus Meeting (PFM) was held at the former Enfield Marshalling Yards on 21 January 2005, and was attended by all relevant State government authorities and Councils (refer to Appendix A – Authority Consultation). The PFM provided a forum for discussion and consideration of issues to be included in the Director-General's requirements setting out the form and content of the EIS. The Director-General's requirements were issued on 1 March 2005.

New Approvals Process

The EP&A Act was amended by the *Environmental Planning and Assessment Amendment (Infrastructure and Other Planning Reform) Act, 2005* (EP&A Amendment Act) which commenced on 1 August 2005. The EP&A Amendment Act introduced a new Part 3A of the EP&A Act which

deals with major infrastructure and other projects ('Part 3A Project'). Major Projects under SEPP MP would be development to which the new Part 3A of the EP&A Act applies.

Part 3A of the EP&A Act provides an assessment and approvals regime specifically tailored for major infrastructure where the Minister for Planning is the approval authority. It provides for a project assessment and approval. Under Part 3A the general process is as follows:

- Project application and environmental assessment, where the proponent submits a project application with an outline of the proposal, a preliminary assessment and outline of any consultation with Councils and the community. A Planning Focus Meeting is sometimes held and Authorities or Agencies and Councils provide recommended assessment requirements for the project. The integrated requirements for an Environmental Assessment (EA) are provided to the proponent by the Department of Planning (DoP);
- The proponent prepares and presents an EA, along with a draft Statement of Commitments. The EA is evaluated and, if adequate, is exhibited for public comment. The proponent considers submissions and may modify the proposal to minimise impacts;
- The proposal is assessed by DoP and a draft Director-General's Report is prepared with recommended approval conditions. Authorities and Councils submit recommendations on the draft Director-General's Report which is then finalised with recommendations and submitted to the Minister for Planning for his decision.

Pursuant to clause 8J(1) of the Regulation, the Director-General has adopted as environmental assessment requirements for the project, those environmental assessment requirements issued by the Director-General under Part 4 of the EP&A Act on 1 March 2005. The Director-General's requirements are provided in Appendix A – Authority Consultation, and summarised in Chapter 6 – Authority Consultation, along with a description of where the issues raised in the requirements are addressed.

The outcomes of the PFM and the extent to which they are addressed in the EA are summarised in Chapter 6 – Authority Consultation and Appendix A – Authority Consultation. Community consultation is summarised in Chapter 5 – Community Consultation and in Appendix A – Community Consultation.

2.2 NSW Environmental Approvals

2.2.1 Protection of the Environment Operations Act, 1997

The *Protection of the Environment Operations Act, 1997* (POEO Act) is the primary piece of legislation regulating pollution control and waste disposal in NSW and is administered by the Department of Environment and Conservation (DEC) (formerly EPA). Under Section 48 of the POEO Act, premise-based scheduled activities (as defined in Schedule 1 of the Act) require an Environment Protection Licence (EPL). Consideration was given to the status of the proposal regarding any requirements for a licence under the Act. The following activities were considered:

- Chemical storage facilities that store or package chemical substances in containers, bulk storage facilities, stockpiles or dumps with a total storage capacity exceeding 2,000 tonnes of any chemical substances. The warehouses and intermodal facility may be used to store in excess of 2,000 tonnes of chemical substances. If the warehouses, the light industrial/commercial area and the intermodal facility are used to store in excess of 2,000 tonnes of chemical substances, the lessee or operator for these areas may be required to obtain an Environment Protection Licence from DEC;
- Railway system activities. Activities at freight depots or centres are not defined as railway system activities;
- Contaminated soil treatment works. The proposed development will not treat and store on-site more than 30,000 m³ of contaminated soil or disturb more than 3ha of contaminated soil. The development is not considered to be contaminated soil treatment works;
- Waste activities. The proposed development will not generate or store hazardous waste, industrial waste or Group A waste as defined in the POEO Act and is therefore not considered a waste activity; and
- Waste facilities. The term ‘waste facility’ is defined in the dictionary of the POEO Act to mean “...any premises used for the storage, treatment, reprocessing, sorting or disposal of waste (except as provided by the regulations)”. The proposed development is not characterised as a class of waste facility listed in Schedule 1 of the POEO Act.

On this basis, an EPL under the POEO Act is not being sought by Sydney Ports for the construction or operation of the proposed ILC.

DEC can issue licences under the POEO Act for non-scheduled activities for the purpose of regulating water pollution. Although the construction and operation of the proposed ILC have the potential to pollute waters, the development and implementation of a soil and water management plan for the site would minimise this potential, providing the mitigation measures detailed in Chapter 10 – Hydrology, Hydraulics and Water Quality were implemented.

2.2.2 Roads Act, 1993

The *Roads Act, 1993* (Roads Act) sets out rights of members of the public to pass along public roads, establishes procedures for opening and closing a public road, and provides for the classification of roads. It also provides for declaration of the Roads and Traffic Authority (RTA) and other public authorities as roads authorities for both classified and unclassified roads, and confers certain functions (in particular, the function of carrying out roadwork) on the RTA and other roads authorities.

Under Section 138 of the Roads Act, work on a public road requires consent of the relevant road authority. Access from Cosgrove Road to the site currently exists, although the new configuration of the Cosgrove Road access will require disturbance to the surface of Cosgrove Road. New access off Wentworth Street is proposed which will require the disturbance of the surface of Wentworth Street. Strathfield Council is the appropriate roads authority and approval from Strathfield Council will be required. The project application would be referred to Strathfield Council to obtain its conditions of

approval for any work on a public road and the subsequent granting of an approval for that work under the Roads Act. An application under Section 138 of the Roads Act to carry out works on a public road cannot be refused if it is necessary for the carrying out of a project approved under Part 3A of the EP&A Act (Section 75V).

2.2.3 Waste Avoidance and Resource Recovery Act, 2001

This Act aims to minimise the consumption of natural resources and the final disposal of waste by encouraging the avoidance of waste, and the reuse and recycling of waste in accordance with the principals of ecologically sustainable development.

This Act repeals and replaces the *Waste Minimisation and Management Act, 1995* and creates a new body called Resource NSW that replaces the existing Waste Planning and Management Boards and the State Waste Advisory Council. The Act introduces a scheme to promote extended producer responsibility in place of industry waste reduction plans.

The proposed development would generate waste and as such, is required to consider the hierarchy of resource management referred to in this Act. This is considered in detail in Chapter 19 – Waste Management.

2.2.4 Dangerous Goods Act, 1975

The *Dangerous Goods Act, 1975* (DG Act), administered by NSW WorkCover, provides a licensing scheme and storage requirements covering the premises where substances classified as dangerous goods are kept. Quantities of dangerous goods to be handled or stored on site will not exceed the quantities specified in the *Dangerous Goods (General) Regulation, 1999*, and therefore the proposed ILC would not require a licence under this Act.

2.2.5 Rivers and Foreshores Improvement Act, 1948

The *Rivers and Foreshores Improvement Act, 1948* (RFI Act) is administered by the Department of Natural Resources (DNR). Under Part 3A of the RFI Act, a permit would normally be required from DNR for:

- The excavation of material from, or within 40 metres of any river, creek or watercourse;
- Placement of any fill material in a watercourse; and
- Construction of any structures, including erosion and sediment controls in a watercourse.

Coxs Creek is a watercourse within the meaning of the Act. There is no requirement under Part 3A of the EP&A Act for Sydney Ports to obtain approvals, but it is not exempt from the other requirements of the Act and will therefore operate within the bounds of the legislation.

2.2.6 Soil Conservation Act, 1938

The *Soil Conservation Act, 1938* is administered by DNR for the purposes of conserving soil and water resources and mitigating soil erosion. Section 15A of the Act provides for Notices that would allow DNR to prescribe measures for erosion and sediment control that must be adopted. Notices can

be issued before construction begins or can be issued to halt an offending activity until proper erosion and sediment controls are instituted. DNR can also undertake the specific works if it finds that the Section 15A Notice is not complied with.

The proposed development site is not in an area of high sedimentation and erosion risk and therefore it is unlikely that DNR would issue a pre-construction Notice for the proposed works. A Soil and Water Management Plan (as part of the Construction Environmental Management Plan) would be prepared to minimise sediment and erosion impacts associated with construction.

2.2.7 Water Management Act, 2000 (and Water Act 1912)

The *Water Management Act, 2000* (Water Management Act) commenced on 1 January 2001 and is administered by DNR. This Act incorporates the provisions of a number of previous Acts that relate to the management of surface and groundwater in NSW. The Act provides a single statute for the regulation of water and works that affect surface and groundwater, both fresh and marine. The ILC site is not subject to a water sharing plan created under the Water Management Act and the licence and approval provisions under Water Management Act do not apply to it. The provisions of the *Water Act, 1912* would therefore normally apply to the proposed development. These include aspects of the *Water Act, 1912* which involve extraction of water from waterways.

As no extraction of water from, nor realignment of, adjacent waterways would be required as part of the proposed activity, no approvals would be required.

2.2.8 Contaminated Land Management Act, 1997

This Act enables DEC to respond to contamination that risks causing significant harm to human health or the environment, and sets out criteria for determining whether such a risk exists. The Act gives DEC power to:

- Declare an investigation site and order an investigation;
- Declare a remediation site and order remediation to take place; and
- Agree to a voluntary proposal to investigate or remediate a site.

The DEC may also direct an organisation to investigate or remediate contaminated land. Those directed to investigate or remediate land may appeal against the direction. They can also recover costs from the polluter/s in some circumstances. The Act allows the DEC to accredit people as site auditors. Site auditors must issue a Site Audit Statement indicating the land uses that any site is suitable for. The DEC is required to keep a record of current and former sites regulated by it. Information about current sites is referred to councils, which must record and make such information available.

The contamination assessment undertaken for the project found that some soils on the proposed development site are contaminated and soil remediation in those areas should be conducted prior to redevelopment. It would not be expected that DEC would use its power under the Act to require any further remediation of the proposed development site.

2.2.9 Threatened Species Conservation Act, 1995

The *Threatened Species Conservation Act, 1995* (TSC Act) identifies threatened species, populations, endangered ecological communities, critical habitats and key threatening processes. In relation to development assessment, the provisions of the TSC Act have been integrated into the EP&A Act. Section 5A of the EP&A Act requires that the assessment of all development applications under Part 4 of the EP&A Act include consideration of whether the proposal is likely to impact on threatened species, populations or ecological communities. The equivalent process is not available under Part 3A of the EP&A Act.

The proposal would not directly impact on any known threatened species, populations, endangered ecological communities or critical habitats. An assessment under Section 5A of the EP&A Act for the Green and Golden Bell Frog was undertaken (refer to Appendix G – Flora and Fauna Studies) and it was concluded that it is unlikely that a significant impact to the species would occur as a result of project.

2.2.10 Noxious Weeds Act, 1993

The *Noxious Weeds Act, 1993* emphasises community cooperation to ensure a coordinated and uniform approach to the control of noxious weeds throughout the State. There are no approvals or permit requirements under the Act. The Act stipulates, however, that as occupiers of land, Sydney Ports must control noxious weeds on the land under their control.

2.3 Commonwealth Legislation

Approval of the Commonwealth Minister for the Environment is required for any actions that may have a significant impact on matters of National Environmental Significance, except in circumstances which are set out in the Commonwealth *Environment Protection and Biodiversity Conservation Act, 1999* (EPBC Act). Approval from the Commonwealth is in addition to any approvals under NSW legislation.

Matters of national environmental significance include:

- World heritage properties;
- Commonwealth Heritage properties;
- Ramsar wetlands;
- Nationally threatened species and ecological communities;
- Migratory species;
- Commonwealth marine areas; and
- Nuclear actions, including uranium mining.

Studies undertaken during the 2001/2 proposal for the site found no flora or fauna species listed in the schedules of the EPBC Act on the proposed site, although marginal habitat for Green and Golden Bell

Frog will be removed. An ecological area will be established which provides secure habitat for this species.

A referral to the Department of Environment and Heritage (DEH) was made in 2002 and DEH concluded that the works are not considered likely to have a significant impact on this matter of national environmental significance. DEH concluded that no further investigation or assessment would be required under the EPBC Act and approval would not be required from the Commonwealth Minister for Environment and Heritage. Further consultation with the DEH was undertaken in May 2005 to describe the change in the project. A response was received reaffirming the previous assessment that the matter was not a controlled action.

2.4 Summary of Approvals

Approvals that must be obtained under any Act or law before the development may be lawfully carried out are:

- Project approval under Part 3A of the *Environmental Planning and Assessment Act, 1979* by the NSW Minister for Planning for the construction and operation of the Intermodal Terminal, warehouse area, empty container storage area, light industrial/commercial area and ecological and community sites, and associated works on those sites;
- Construction certificates under the *Environmental Planning and Assessment Act, 1979* for building structures on the Intermodal Terminal, light industrial/commercial area, warehouse area and empty container storage sites; and
- Approval under Section 138 of the *Roads Act, 1993* for access works to Wentworth Street and for the configuration of the entrance at Cosgrove Road.