



town planners

## Statement of Environmental Effects



### **Proposed S.96(1A) Modification to the Approved Stack Height of an Existing Container Depot**

Lot 1 DP 735037  
Simblist Road, Port Botany

Prepared for: Tyne Container Services  
Project No: 6810B  
Date: February 2010



## Statement of Environmental Effects

Modification of Development Consent No. DA-42-10-2007-i Simblist Road, Port Botany

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- B Revised Container Layout Plan prepared by DFP based on Site Plan prepared by Bottaro de Nett
- C Geotechnical Assessment prepared by Aargus Engineering
- D Visual Impact Assessment prepared by Don Fox Planning Pty Limited
- E Landowners Consent from Sydney Ports Corporation

## **1 Introduction**

### **1.1 Commission**

Don Fox Planning Pty Ltd (DFP) has been commissioned by Tyne Container Services to prepare a Statement of Environmental Effects for modification of the existing container depot stack height at Lot 1 DP 735037, Simblist Road, Port Botany.

### **1.2 Purpose of this Statement**

This Statement provides the relevant information necessary for the NSW Minister for Planning to assess and determine the modification application in accordance with the Environmental Planning and Assessment Act 1979 (the Act) and accompanying Environmental Planning and Assessment Regulation 2000 (the Regulation).

### **1.3 Background**

The subject site is owned by Sydney Ports Corporation (SPC) and is currently leased to Tyne Container Services.

Development Application No. DA-42-10-2007-i was approved by the NSW Minister for Planning on 22 February 2008 for an Empty Container Depot with a stack height of 5 containers.<sup>1</sup>

Tyne Container Services wishes to improve the efficiency of the site by reconfiguring the container stacking layout with a maximum stack height of 6 containers.

### **1.4 Type of Development Application**

The original development proposal (DA-42-10-2007-i) was not considered a project to which Part 3A of the Act applied. Accordingly, the development application was the subject of an assessment under Part 4 of the Act with the consent authority being the NSW Minister for Planning.

State Environmental Planning Policy (SEPP) (Major Projects) 2005 was recently amended by SEPP (Major Projects) Amendment (Three Ports) 2009. Although the proposal is still not regarded as a project to which Part 3A of the Act applies, if lodged under current planning controls it would no longer be assessed under Part 4 of the Act but instead, would be assessed under Part 5 of the Act with SPC as the determining authority. Despite this, SPC has advised that in this instance the proposed modification under S.96 of the Act is to be determined by the NSW Minister for Planning as the original consent authority for the development.

As originally approved, the subject property is located within the 4B Port Botany zone under Randwick Local Environmental Plan 1998 (RLEP). A container depot is permitted with development consent.

## **2 Description of the Subject Site and Port Botany Locality**

### **2.1 Subject Site**

The subject site is described as Lot 1 DP 735037, Simblist Road, Port Botany and is located within the Randwick Local Government Area (LGA) as shown in **Figure 1**.

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<sup>1</sup> Development Consent No. DA-42-10-2007- i dated 22 February 2008 provided at **Appendix A**.

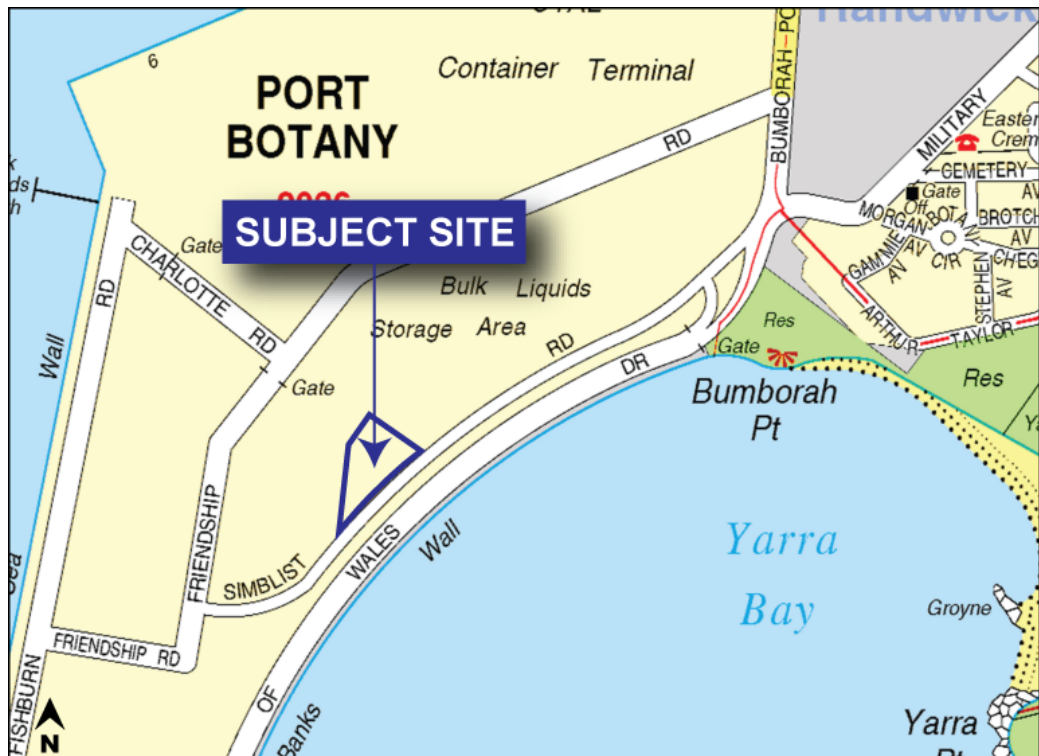


Figure 1 – Locality Plan

The subject site is an irregular shaped allotment comprising a 223.135 metre frontage to Simblist Road with a total area of 1.443ha and is accessible from the north eastern side of the site from Simblist Road.

Lot 1 DP 735037 is the Deposited Plan which has been created for lease purposes. This lot is part of Lot 6 DP 1053768 which includes both the subject site and the adjoining Terminals land to the north east. The site is also known as 11 Simblist Road, Port Botany.

The subject site contains an existing empty container depot with a capacity of 1445 containers. Terminals Pty Limited operates an existing filling station and bulk liquid storage tank to the north east of the site. The subject site is not affected by any significant site constraints and currently operates as a 24 hour empty container depot.

The visual character of the site and surrounding area is predominantly industrial with the surrounding landscape being dominated by large petroleum tanks and container cranes associated with port-related activities.<sup>2</sup> The site is predominantly screened from view from the foreshore area of Yarra Bay and Frenchman's Bay by a revetment wall adjoining Prince of Wales Drive which is approximately 8.5 metres high as shown in **Figure 2**.



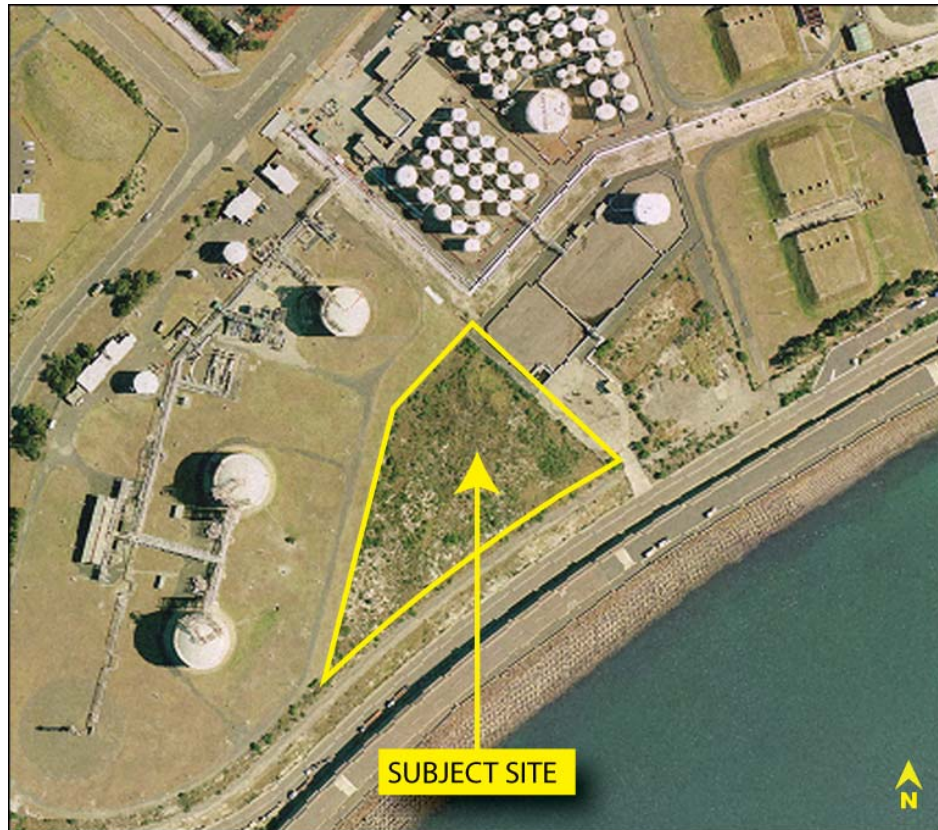
Figure 2 - Prince of Wales Drive revetment wall opposite the site

<sup>2</sup> Visual Impact Assessment prepared by DFP provided at **Appendix D**.

The surface of the subject site is suitably compacted with ripped sandstone and roadbase materials and is able to accommodate the increased loads exerted by shipping containers up to 6 high with associated forklift movements.<sup>3</sup>

## 2.2 Port Botany Locality

The subject site is surrounded by port-related industrial development as shown in **Figure 3**.



*Figure 3 – Aerial Photograph*

Figure 3 does not indicate the current usage of the site (for the purposes of a container depot) as the most recent available aerial photograph is dated May 2008.

<sup>3</sup> Geotechnical Assessment prepared by Aargus Engineering provided at **Appendix C**.

### 3 Description of the Proposed Development (As Modified)

#### 3.1 Overview

The proposal is summarised in **Table 1**.

Table 1 – Overview

| Description            | Existing                                                                                             | Proposed                                                                                    |
|------------------------|------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| Materials to be Stored | Non-hazardous (empty) shipping containers stacked up to <b>5</b> containers high (maximum);          | Non-hazardous (empty) shipping containers stacked up to <b>6</b> containers high (maximum); |
|                        | Maximum capacity: 1445 x 20' shipping containers (or a lesser combination of 20' and 40' containers) | No Change <sup>4</sup>                                                                      |

#### 3.2 Proposal

##### 3.2.1 Increased Container Stack Height and Subsequent Redistribution

The proposed container depot will comprise of container stacks up to 6 high which equates to an increase of 1 container in height. The modified proposal will not encroach upon the approved minimum setbacks.

It is anticipated that the modified proposal will retain a maximum of 1445 x 20' shipping containers (or a lesser combination of 20' and 40' containers) on the subject site. The average storage duration for a container on the site will also remain unchanged. Redistribution of the container layout will improve manoeuvrability on the site.

Where necessary, containers will be stepped up 1 container per row for improved access and wind safety purposes. In particular, those containers which face directly into prevailing south westerly winds will not be stacked 6 high. The stepping of containers for wind safety purposes will also assist with minimising visual impact as the bulk and scale of the development will be reduced when viewed from surrounding properties and from the public domain.

The proposed modification will not change the capital investment value of the development, which will remain less than \$5 million.

### 4 Environmental Assessment

#### 4.1 Section 79C(1)(a) – Environmental Planning Instruments

##### 4.1.1 Randwick Local Environmental Plan 1998

The subject site is located within the 4B Port Botany zone under the Randwick Local Environmental Plan 1998 (RLEP) as noted in **Figure 4**.

The increased container stack height will not affect the permissibility of the proposal and will remain consistent with the objectives of the 4B Port Botany zone which are:

- (a) *to facilitate the development and operation of Port Botany as a major cargo handling and distribution centre, and*

<sup>4</sup> Revised container layout prepared by DFP provided at **Appendix B**



- (b) to allow a range of activities which complement the continued and effective operation of the port, and
- (c) to encourage development of, and accommodate innovation in, the sources of economic growth, and
- (d) to enhance and improve the physical environment by minimising disturbances caused by air pollutants, water pollutants, noise pollutants and other pollutants, and
- (e) to enable development for the purposes of retailing or commercial offices only where it is associated with, and ancillary to, port related activities or where it serves the daily convenience needs of the local workforce.

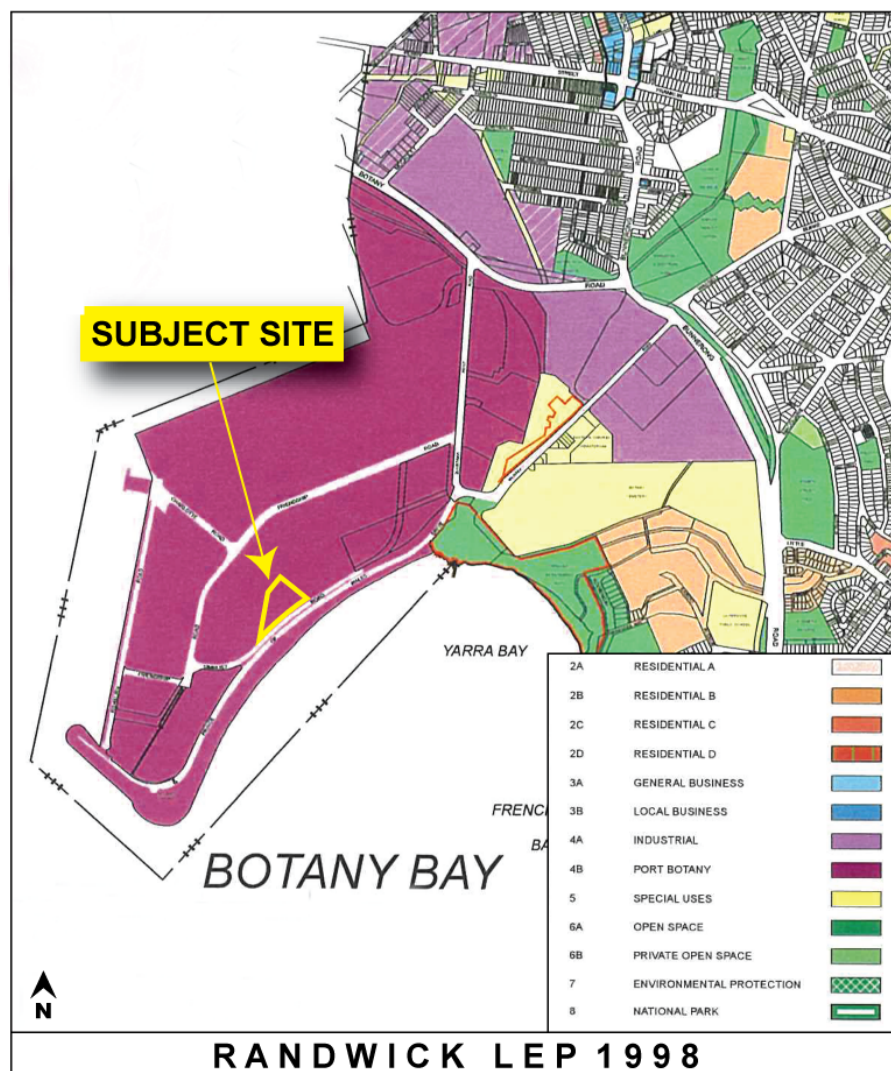


Figure 5 – RLEP Zoning Extract

Clause 36(4) of RLEP 1998 pertains to additional development in industrial zones as follows:

*'The Council may grant consent to the development of land within Zone No 4A or 4B only where it has considered the Port Botany Landuse Safety Study*

*1996, prepared by the Department of Urban Affairs and Planning, a copy of which is deposited in the office of the Council'.*

It is understood that the purpose of the Port Botany Landuse Safety Study 1996 is to establish criteria for the assessment of applications for certain types of development in industrial zones, particularly having regard to the impact of those activities on nearby residential areas. The proposed container depot (as modified) will not create an adverse impact on any residential development as the subject site is surrounded by Industrial land within the 4B Port Botany zone.

Clause 37 of RLEP 1998 pertains to Development in the Port Botany Industrial Area and applies to the subject site as follows:

*The Council may grant consent to the development of land within Zone No 4B only if it is satisfied that the proposed development is, by virtue of the nature of the activity or activities involved, suited to being in close proximity to Port Botany and will not adversely affect the continued operation of the port.*

The proposed container depot (as modified) will reinforce the importance of the role, function and continued operation of Port Botany as a major shipping and cargo handling facility within the 4B Port Botany Zone. The proximity of the subject site to Port Botany will ensure the continuation of efficient cargo transport within this zone and the proposed container depot (as modified) is noted as being consistent with other surrounding land uses within close proximity to the site.

Clause 40A of RLEP 1998 pertains to Masterplans as follows:

- (1) *Despite any other provisions of this plan, consent may be granted to a development application made in respect of a site area consisting of more than 4,000 square metres of land only if:*
  - (a) *a master plan for the development of that land has been adopted in accordance with this clause, and*
  - (b) *the consent authority is satisfied that the development is not inconsistent with the provisions of that master plan.*
- (2) *The consent authority may waive the requirement for a master plan, but only if it is satisfied:*
  - (a) *that the proposed development is of a minor nature only or is ancillary to the current use of the land, or*
  - (b) *that adequate guidelines and controls applying to the land are already in place.*

The subject site has an area of approximately 14,430m<sup>2</sup> and therefore is larger than 4000m<sup>2</sup>. Notwithstanding, the site is located within the existing 4B Port Botany zone and the proposed container depot (as modified) is both consistent with the zone objectives and permissible with consent. Consequently, in the opinion of DFP, the modified proposal is of a minor nature with suitable controls in place to address this form of development, thereby indicating that the Minister's support to waive the requirement for a Masterplan on this site would be warranted.

#### **4.1.2 State Environmental Planning Policy (Major Projects) 2005**

Since the approval of DA No. DA-42-10-2007-i on 22 February 2008, SEPP (Major Projects) 2005 has been amended by SEPP (Major Projects) Amendment (Three Ports) 2009 yet the legislation applicable at the time DA No. DA-42-10-2007-i was determined remains applicable to this Section 96 as follows.

Clause 9A(1) pertains to development for which the Minister is the Consent Authority under Part 4 of the Environmental Planning and Assessment Act 1979 as follows:

*'The Minister is the consent authority under Part 4 of the Act for any development requiring consent under that Part that, in the opinion of the Minister, is of a kind described in Schedule 6 and is not a project to which Part 3A of the Act applies.'*

Schedule 6 includes Port and related employment lands in Botany as follows:

*'Development within the area identified on Map 5 to Schedule 2, being development with a capital investment value of not more than \$5 million that is carried out by a person other than a public authority.'*

The subject site is included in Map 5 to Schedule 2 of SEPP (Major Projects) 2005 as noted in **Figure 5**.

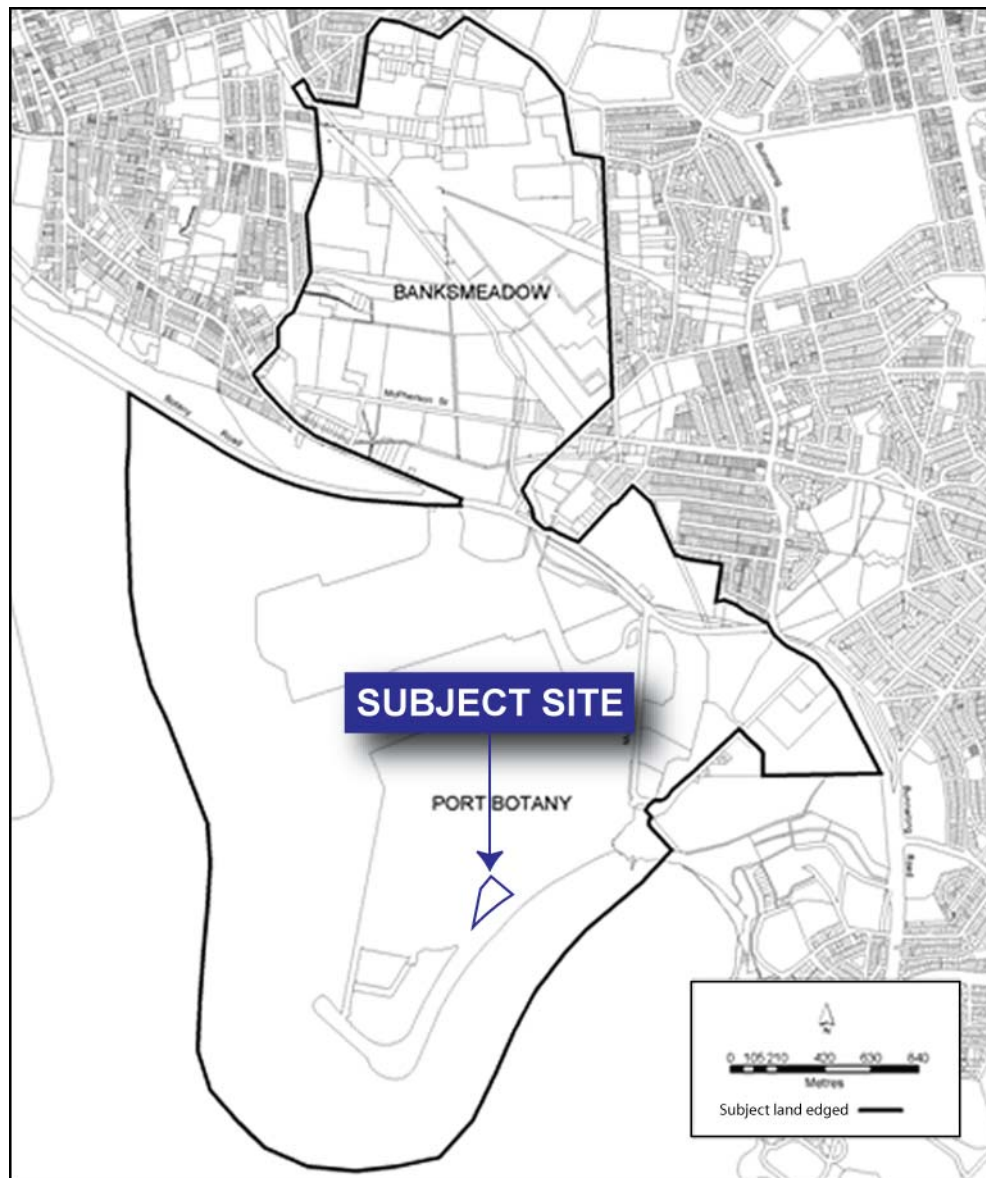


Figure 5 – Map 5 Schedule 2 SEPP (Major Projects) 2005

Accordingly, despite recent amendments to SEPP (Major Projects) 2005, an application for modification of development consent is required to be submitted to the Minister (NSW Department of Planning) and not Randwick Council or SPC for assessment under the legislation which applied at the time of lodgement. It is noted that the provisions of SEPP

(Major Projects) 2005 override the consent authority provisions contained within Clause 6 of RLEP 1998. Recent amendments to SEPP (Major Projects) 2005 included rezoning of the subject site to a SP1 Special Activities zone and 'port facilities' *inter-alia* (inclusive of container depots) are also permitted with development consent under the new zoning.

The proposed modification will not change the capital investment value of the development, which will remain less than \$5 million.

#### **4.2 Section 79C(1)(a)(iii) – Development Control Plans**

Randwick City Council has advised that no specific DCP's apply to the subject site or 4B Port Botany zoned land.

##### **4.2.1 Masterplan**

No specific Masterplan applies to the subject site. Notwithstanding, the modified proposal is port related development and will be able to cater for the future volume and growth in container trading.

#### **4.3 Environmental Impacts**

##### **4.3.1 Built Environment**

The proposal will result in minimal impact on the surrounding built environment which comprises predominantly port-related industrial buildings and activities. The proposed increase in container stack height of 1 container will not give rise to excessive bulk or scale, and is consistent (if not smaller) in scale to neighbouring sites that are used as container depots.<sup>5</sup>

The visual impact of the proposed modification is acceptable having regard to the nature of the existing approved use, surrounding uses and the general industrial zoned nature of the Port Botany locality.

No changes or amendments to traffic flow or management are proposed on the site however it is noted that improved manoeuvrability will result from the revised stacking arrangement.

##### **4.3.2 Natural Environment**

The proposed increase in the approved container stack height will not result in an impact on the natural environment.

##### **4.3.3 Social and Economic Impact**

The modified proposal is not anticipated to create any adverse social and/or economic impact on the Port Botany locality, indeed it will make more efficient use of the subject site and improve truck manoeuvrability.

#### **4.4 Section 79C(1)(c) – Suitability of the Site for the Proposed Container Depot (As Modified)**

The subject site is considered to be suitable for the proposed increased container stacking height for the following reasons:

- The proposed maximum height of 6 containers is consistent with the maximum height of containers stacked at depots within the surrounding locality;
- The proposed container depot will maintain a maximum of 1445 containers and therefore no additional traffic or intensification of use is proposed;

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<sup>5</sup> Visual Impact Assessment prepared by DFP provided at **Appendix D**.

- The existing revetment wall associated with Prince of Wales Drive acts as a substantial visual barrier in this area of Port Botany. Even though some of the higher containers will be visible from La Perouse, Yarra Bay and Frenchman's Bay, the impact is considered to be within acceptable limits and consistent with the industrial character of the area;
- No changes or amendments to traffic flow or management are proposed on the site however it is noted that improved manoeuvrability will result from the revised stacking arrangement;
- The proposed container depot (as modified) is consistent with the 4B Port Botany zoning and objectives contained within RLEP 1998;
- The proposed container depot (as modified) is also consistent with the SP1 Special Activities zoning and objectives contained within SEPP (Major Projects) 2005 despite not being as relevant to this proposal; and
- Potential environmental and amenity impacts associated with the modified proposal are considered to be minimal.

#### **4.5 Section 79C(1)(e) – The Public Interest**

A revised container stacking arrangement up to 6 containers high is consistent with the objectives of the applicable zoning and the desired future character of the Port Botany locality and therefore is considered to be within the public interest.

### **5 Conclusion**

DFP has prepared this Statement of Environmental Effects for a revised container stacking arrangement up to 6 containers high (increase of 1 container in height and subsequent redistribution for improved manoeuvrability) at Lot 1 DP 735037 Simblist Road, Port Botany on behalf of Tyne Container Services.

Following an assessment of the proposal under S.79C of the Environmental Planning and Assessment Act 1979, we are able to conclude that the modified proposal:

- a) is permitted with consent from the NSW Minister for Planning under S.96 of the Act;
- b) is consistent with the 4B Port Botany zone objectives under RLEP 1998;
- c) will result in minimal impact on the surrounding environment and existing industrial development;
- d) is acceptable, having regard to the suitability of the subject site for the proposed development; and
- e) is able to be supported as being within the public interest.

DFP recommends that the NSW Minister for Planning grant approval to Tyne Container Services for the proposed modification to Development Consent No. DA-42-10-2007-i subject to the imposition of appropriate conditions of development consent.