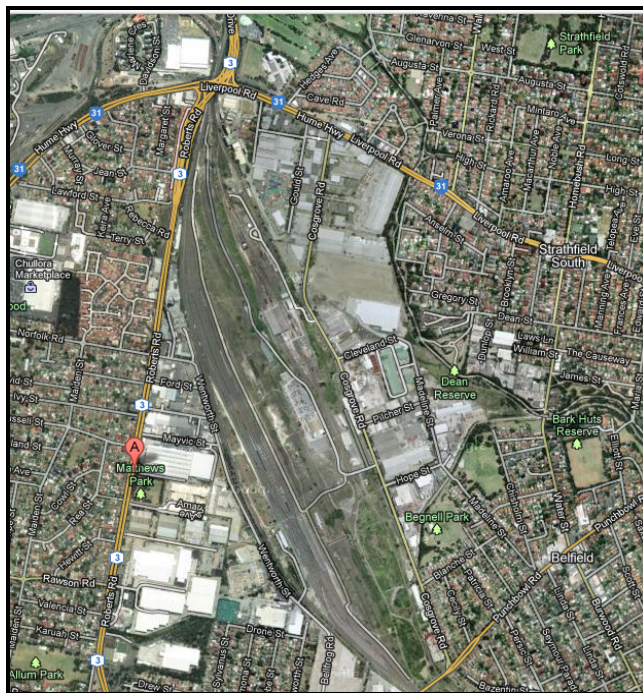




**MODIFICATION REQUEST:  
Enfield Intermodal Logistics Centre –  
Modification 8  
Cosgrove Road, Strathfield South  
(MP 05\_0147 MOD 8)**

***Amendments to Subdivision Layout***



Director-General's  
Environmental Assessment Report  
Section 75W of the  
*Environmental Planning and Assessment Act 1979*

November 2013

## ABBREVIATIONS

---

Department	Department of Planning and Infrastructure
Director-General	Director-General of the Department of Planning and Infrastructure
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
ILC	Intermodal Logistics Centre
Minister	Minister for Planning and Infrastructure
Part 3A	Part 3A of the <i>Environmental Planning and Assessment Act 1979</i>
Proponent	NSW Ports
TEU	Twenty-foot equivalent unit

© Crown copyright 2013  
Published November 2013  
NSW Department of Planning & Infrastructure  
[www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)

**Disclaimer:**

While every reasonable effort has been made to ensure that this document is correct at the time of publication, the State of New South Wales, its agents and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document.

## EXECUTIVE SUMMARY

---

On 5 September 2007, the then Minister for Planning granted project approval for the development of an Intermodal Logistics Centre (ILC) at Enfield. The project was approved under Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The ILC is located in the Strathfield local government area and comprises the acceptance of 300,000 twenty-foot equivalent unit (TEU - one TEU is equivalent to one twenty foot container) per annum of containerised cargo by rail from Port Botany for redistribution by road to markets in central western Sydney. The project will be supported by warehousing for the unpacking/packing of containers, light industrial/commercial premises, empty container storage areas, and distribution facilities.

Consequent to project approval, a number of modifications have been requested and approved including a modification application to subdivide the site.

To optimise the construction and operation of the ILC (and taking into consideration the requirements of future tenants), on 2 September 2013 the new site lessee, NSW Ports, submitted a request under Section 75W of the EP&A Act to modify the subdivision layout of the site. An addendum to the application was submitted by the Proponent on 19 September 2013. The proposed modification involves:

- merging Lots 5 and 6 into a single lot to enable consolidation of services;
- reducing those parts of Lot 22 (internal access road) that adjoin Lots 6, 8 and 11 as the proposed internal roadways adjoining the lots are not required to be of the length previously approved;
- reallocation of a minor part of Lot 12 to Lot 11; and
- subdivision of a portion of Lot 11 to provide two allotments in accordance with the approved land use on the lots.

The modification application also requested the insertion of a condition allowing the Director-General to approve any further amendments to the subdivision layout.

The modification application did not require public exhibition, but was placed on the Department's website on 20 September 2013 and referred for comment to Strathfield Council. Council indicated that it had no objection to or comments on the application. No public submissions were received.

The Department has undertaken an assessment of the proposed modification and considers that the proposed changes to the site subdivision do not constitute a radical transformation of the terms of the existing project approval. Rather, the proposed changes involve relatively minor changes to the subdivision layout to improve site operability while maintaining the approved land uses. On balance, the Department therefore considers the request to amend the subdivision layout justified and recommends that that it be approved.

The Department has considered the Proponent's request to include a condition allowing the Director-General to approve any future modifications to the subdivision plan. However, the Department considers that the appropriate approach for future modifications remains to seek approval under Section 75W(2) where the modification is not consistent with the approved plan.

## TABLE OF CONTENTS

---

1.	BACKGROUND	1
	1.1 Approved Project	1
	1.2 Surrounding Land Uses	4
2.	PROPOSED MODIFICATION	4
3.	STATUTORY CONTEXT	7
	3.1 Modification of the Minister's Approval	7
	3.2 Consistency with Planning Instruments	7
4.	CONSULTATION AND SUBMISSIONS	8
	4.1 Notification	8
5.	ASSESSMENT	8
	5.1 Modification to Subdivision Layout	8
	5.2 Approval of Future Amendments to Subdivision Layout	9
6.	CONCLUSION AND RECOMMENDATIONS	10
	APPENDIX A MODIFICATION REQUEST	11
	APPENDIX B RECOMMENDED MODIFYING INSTRUMENT	12

# 1. BACKGROUND

---

## 1.1 Approved Project

On 5 September 2007, the then Minister for Planning approved the Enfield Intermodal Logistics Centre (ILC) under Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The approved project is located on the site of the former Enfield Marshalling Yards, Cosgrove Road, Enfield (**Figure 1**) and is within the Strathfield local government area. The project has an estimated capital investment value of \$150 million.

Main construction works commenced in 2011 and are estimated to be completed by the end of 2013. Upon completion, the ILC will accept a maximum throughput of 300,000 TEU (one TEU is equivalent to one twenty foot container) per annum of containerised cargo by rail, including from Port Botany, for redistribution by road to markets in central western Sydney. The approved project includes:

- demolition, relocation and 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; and
- construction and operation of -
  - an intermodal terminal for the loading and unloading of containers,
  - rail sidings, railway lines and other works to connect to the existing freight line,
  - warehousing for the packing and unpacking of containers and the short-term storage of cargo,
  - empty container storage facilities, for the storage of empty containers to be later packed or transferred back to the port or regionally by rail,
  - light industrial/commercial area fronting Cosgrove Road,
  - access works including the construction of a road bridge over the new marshalling yards for access to Wentworth Street and an upgrade of the entrance to the site from Cosgrove Road, and
  - internal roads, administration buildings, diesel and LPG storage and fuelling facilities, container washdown area, vehicle maintenance shed, installation of site services (all utilities, stormwater and sewerage), and construction of noise walls.

The approved site layout is illustrated in **Figure 2**.

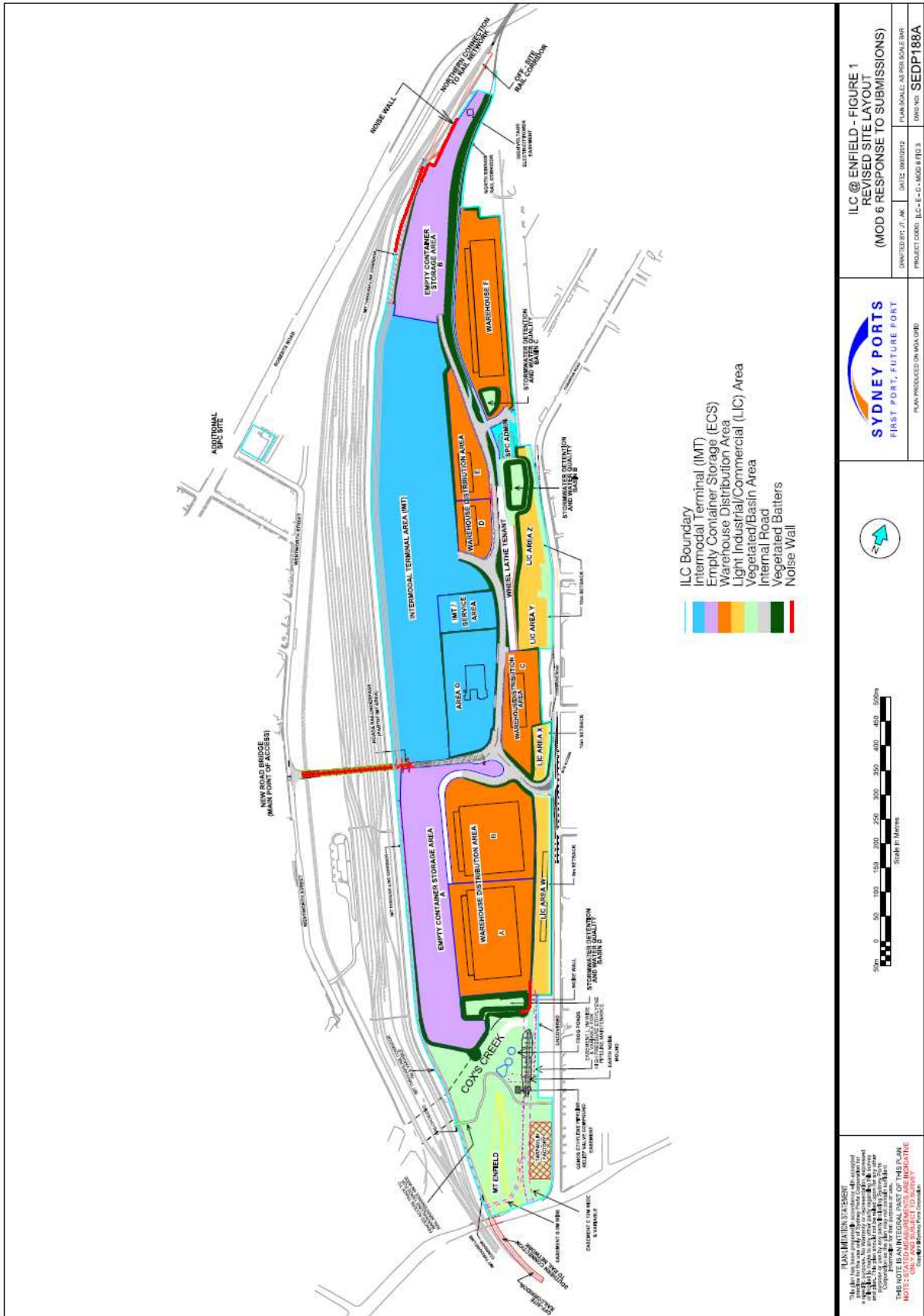
The proponent for the project at the time of approval was Sydney Ports Corporation. On 31 May 2013, NSW Ports successfully purchased the 99 year lease rights from the NSW Government for the Enfield ILC site. NSW Ports (the Proponent) has submitted a request under Section 75W of the EP&A Act to modify the project approval to allow for proposed adjustments to the subdivision of the site (**Appendix A**). The following is a list of previous modifications under Section 75W of the EP&A Act.

- Modification 1 - On 7 October 2008, the Executive Director, Major Project Assessments, as delegate for the Minister for Planning, approved a modification amending condition 3.2 regarding construction dust monitoring, including the technology to be used and the duration of monitoring.
- Modification 2 - On 30 March 2009, the Director-General, as delegate for the Minister for Planning, approved a modification amending condition 2.43 regarding the requirements for a Site Audit Statement so as to avoid project delays arising from the time required between the remediation of contaminated areas and the preparation and completion of a Site Audit Statement prior to the commencement of construction. This modification also included the addition of a condition allowing for the staging of the project.
- Modification 3 - Modification 3 is a pending application that has not progressed.

Figure 1: Project Location



Figure 2: Site Layout



- **Modification 4** - On 27 May 2010, the Director, Infrastructure Projects, as delegate for the Minister for Planning, approved a modification in relation to noise mitigation measures, the internal road layout, stormwater detention and treatment, warehousing and distribution, and the wording of a number of construction related conditions.
- **Modification 5** - On 10 November 2011, the Minister for Planning and Infrastructure approved a modification for the onsite relocation and reuse of excavated material (deemed unsuitable for engineering fill at the ILC operational areas) on and around the stockpile located at the southern part of the site and referred to as 'Mt Enfield'.
- **Modification 6** - On 12 December 2012, the Minister for Planning and Infrastructure approved a modification involving the inclusion of the former Toll Lease Area, adjustments to the site layout, subdivision of the site, and changes to meteorological monitoring requirements.
- **Modification 7** - On 8 March 2013, Sydney Ports Corporation submitted a modification application to modify the subdivision of the ILC site. The modification request was withdrawn on 11 September 2013.

## 1.2 Surrounding Land Uses

The Enfield ILC is located in an existing industrial area and surrounding land uses predominantly comprise light industrial, residential and commercial development. The main land uses surrounding the site include:

- North – residential and light industrial development and Strathfield Golf Course;
- South – mixture of light industrial, commercial and residential development;
- East – Cosgrove Road, with land uses predominantly comprising commercial and light industrial development; and
- West – Enfield Marshalling Yards, beyond which is a range of commercial and industrial facilities.

The nearest residential receivers are located along Cosgrove Road and Wentworth Street to the south-east and south-west of the site, respectively.

## 2. PROPOSED MODIFICATION

---

The ILC will comprise several long-term tenants all of whom would be subject to long-term leases with the Proponent. In accordance with Land and Property Information requirements, the registration of a lease of land in excess of five years can only be completed by the preparation and registration of a Plan of Subdivision. As stated in **Section 1.1**, Modification 6 approved the subdivision of the ILC site in accordance with subdivision plan DWG:120225SUB-7 Issue 7 (refer **Figure 3**).

Consequent to the review of operational and leasing requirements, on 2 September 2013 NSW Ports submitted a modification application (**Appendix A**) requesting an amendment to the subdivision layout comprising the following changes:

- merging Lots 5 and 6 into a single lot to enable consolidation of services;
- reducing those parts of Lot 22 (internal access road) that adjoin Lots 6, 8 and 11 as the proposed internal roadways adjoining the lots are not required to be of the length previously approved;
- reallocation of the area under the bridge within the intermodal terminal from Lot 12 to Lot 11; and
- subdivision of a portion of Lot 11 to provide two allotments (in accordance with the approved land use) so that each lot can be separately leased.

**Figure 4** illustrates the proposed subdivision arrangement.

Figure 3: Approved Plan of Subdivision

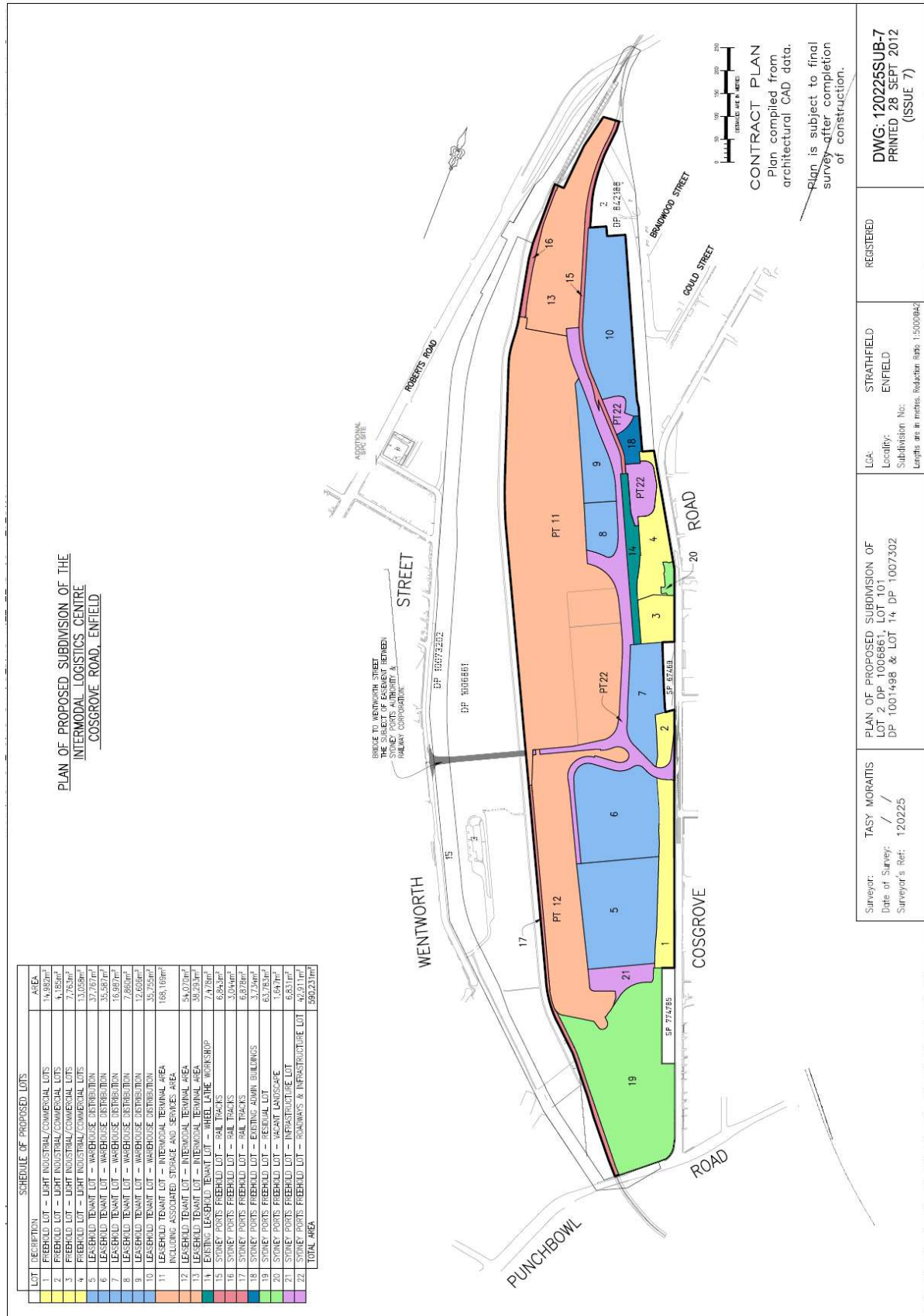
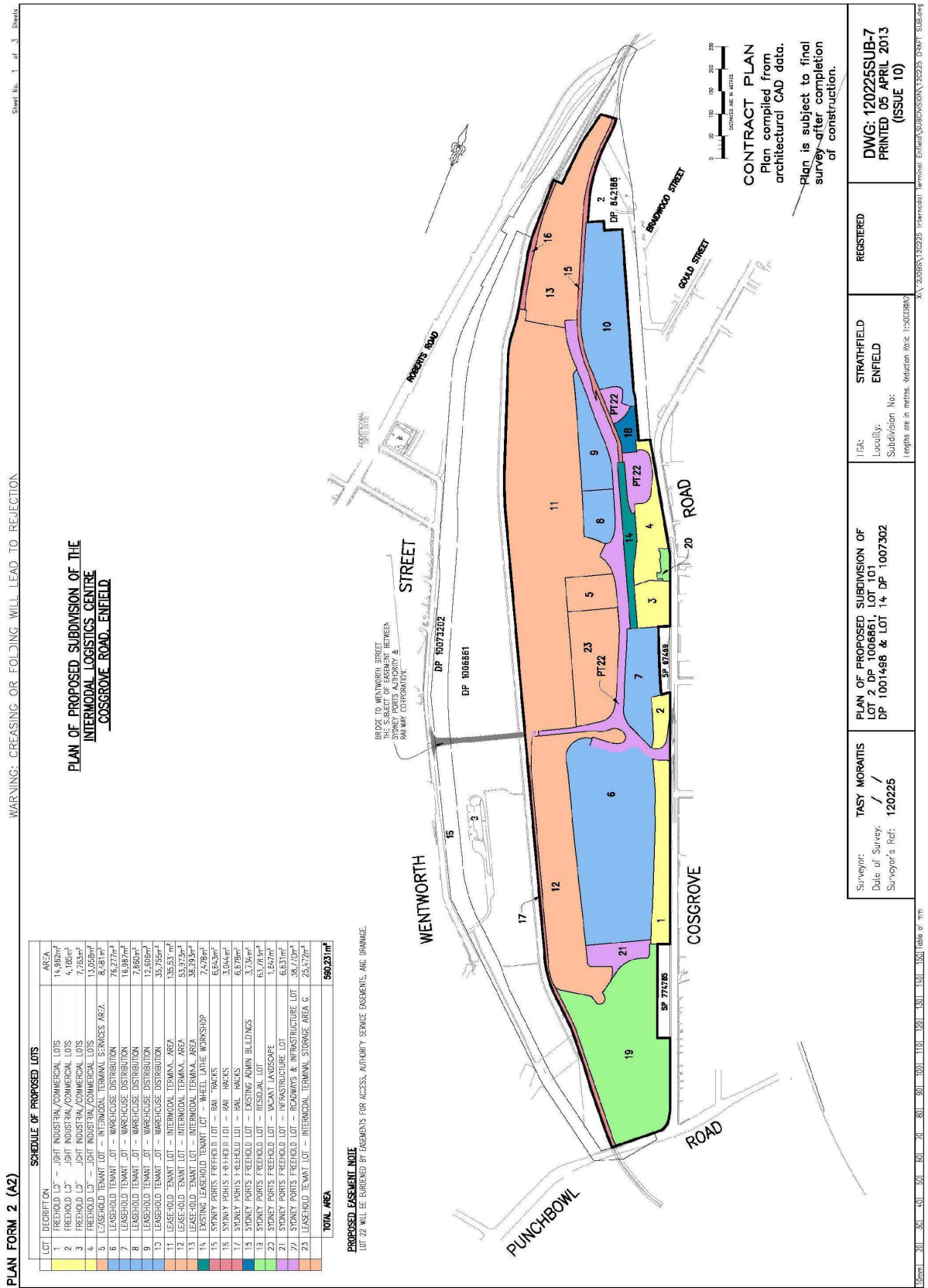


Figure 4: Proposed Subdivision Layout



To address the proposed changes to the subdivision layout, NSW Ports has requested the following changes to the project approval:

- Appendix 1 (Plan of Subdivision) be replaced with DWG:120225SUB-7 Issue 10 (as illustrated in **Figure 4** of this report); and
- amend condition 1.1 to include references as appropriate to Modification No. 8.

Consequential changes will need to be made to conditions 1.2 and 1.16 as a result of the insertion of references to the modification application in condition 1.1.

The modification application also requests that a condition of approval be inserted permitting the Director-General to approve any further modifications to the subdivision plan.

### 3. STATUTORY CONTEXT

---

#### 3.1 Modification of the Minister's Approval

Pursuant to Schedule 6A of the EP&A Act, the approved project is a *transitional Part 3A project* and therefore Part 3A of the EP&A Act continues to apply in respect of the project.

Section 75W (2) of the EP&A Act provides that a Proponent can request the Minister to modify the approval of a project. The Minister's approval is not required if the project, as modified, will be consistent with the original approval. The subject modification is not consistent with the approval, but would not result in a radical transformation and therefore an assessment in accordance with Section 75W of the EP&A Act is considered appropriate.

On 28 September 2011, the Minister delegated his powers and functions under Section 75W of the EP&A Act to Directors in the Major Projects Assessment Division where the following applies:

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

As all these criteria are met with respect to the proposed modification application, the Director, Infrastructure Projects may determine the modification application under delegated authority.

#### 3.2 Consistency with Planning Instruments

Under Sections 75I(2)(d) and 75I(2)(e) of the Act, the Director-General's report for a project is required to include a copy of, or reference to, the provisions of any State Environmental Planning Policy that substantially governs the carrying out of a project, and the provisions of any environmental planning instruments that would (except for the application of Part 3A) substantially govern the carrying out of the project and that have been taken into consideration in the assessment of the project.

The proposed modification does not involve any operational changes to the project. Nor does it seek to modify the arrangements for warehousing and distribution, or elements of the industrial and commercial precincts proposed within the site. The modification comprises boundary changes to five allotments and inclusion of a condition regarding the approval of future amendments to the subdivision layout. Consequently, there are no State or regional provisions in any environmental planning instruments that substantially govern the modification to the project.

Pursuant to the *Strathfield Local Environmental Plan 2012*, the subject parcels of land are zoned IN1 General Industrial. The proposed changes to the subdivision layout and corresponding land uses are consistent with the objectives of the zoning.

## 4. CONSULTATION AND SUBMISSIONS

---

### 4.1 Notification

The Department made the modification application and supporting documentation available on its website in accordance with Section 75X(2)(f) of the EP&A Act, which requires that the Director-General make the modification request publicly available.

The modification does not require public exhibition, but was referred to Strathfield Council for comment. Council did not raise any objection to the proposed modification, nor did it raise any issues for the Department's consideration.

No public submissions were received.

## 5. ASSESSMENT

---

As noted in **Section 2.1**, the modification request involves two components. One component involves modification to the subdivision layout. The other requests that a condition of approval be inserted permitting the Director-General to approve any further modifications to the subdivision plan. The Department's assessment of the modification request is dealt with on the basis of each component.

### 5.1 Modification to Subdivision Layout

The Enfield ILC site currently comprises 22 lots and in the future will comprise several long-term tenants which would be subject to long-term leases of land with NSW Ports as the landlord. In accordance with Section 7A of the *Conveyancing Act 1919* (and Land and Property Information requirements), registration of a lease of part of a land in a single title in excess of five years can only be completed by the preparation and registration of a "Plan of Subdivision". Therefore, to facilitate the site activities as contemplated in the planning approval (i.e. long-term tenancy of operational areas), separate operational areas and tenancies have been created as separate allotments.

The proposed modification involves:

- merging Lots 5 and 6 into a single lot;
- subdivision of a portion of Lot 11 to provide two allotments (Lots 5 and 23)
- reducing those parts of Lot 22 (internal access road) that adjoin Lots 6, 8 and 11; and
- reallocation of the area under the bridge within the intermodal terminal from Lot 12 to Lot 11.

The above amendments would result in the creation of 23 allotments.

The Proponent has indicated that it is proposed to merge Lots 5 and 6 to allow for the consolidation of services based on the proposed leasing arrangements. The proposed amalgamation of Lots 5 and 6 into a single allotment (Lot 6) would not change the end use of this part of the site as two warehouses would still be constructed and internal road access and services would be provided to both warehouse as per the approved project. In addition, the amalgamation would not result in any changes to the approved warehouse footprints. Consequently, the Department is of the opinion that the proposed amalgamation is acceptable as it would not result in any additional environmental impacts during the construction and operation of the site.

In regards to the subdivision of a portion of Lot 11 into two allotments, this is consistent with the proposed land use as described in and approved under Modification No. 6. The Department accepts that the modification is required to enable the two allotments to be separately leased resulting in efficiencies in tenancy operations.

The reallocation of the area under the bridge within the intermodal terminal from Lot 12 to Lot 11 is proposed as the area would be paved along with the remainder of Lot 11. The area of land to be reallocated is relatively small (97 square metres) and consequently would not have a significant impact on tenancy or land use operations.

In regards to Lot 22 (internal access road), the previously approved subdivision layout showed part of this allotment adjoining the property boundary of Lot 5. The allotment was created to provide access to Lot 5 from Cosgrove Road. Consequent to the amalgamation of Lots 5 and 6, the Department accepts that the access road to the west of Lot 6 is no longer required and supports its incorporation into Lot 6.

Similarly, the approved subdivision layout extended the internal access road (Lot 22) alongside Lot 8 into Lot 11 to a distance greater than that which is required under the existing leasing arrangement. Considering the road is not required, the Department supports the Proponent's proposal to reduce the road length. This has a beneficial flow on effect in terms of maximising the use of Lot 11 for leasing purposes.

Considering the proposed amendments to the subdivision layout are consistent with the overall landuse pattern of the approved project and would result in improvements in the functionality of the site, the Department recommends that the proposed amendments to the subdivision layout be approved and that:

- the figure at Appendix 1 of the project approval be replaced with the Subdivision Plan shown in Figure 4 (DWG:120225SUB-7 Issue 10, printed 5 April 2013);
- condition 1.1 include references as appropriate to Modification Application No.8; and
- conditions 1.2 and 1.16 be amended consequential to the numbering changes within condition 1.1.

## 5.2 Approval of Future Amendments to Subdivision Layout

The modification application requests that a condition of approval be inserted permitting the Director-General to approve any further modifications to the subdivision plan, rather than seek approval under Section 75W(2) of the EP&A Act.

As noted in **Section 3.1**, Section 75W(2) of the EP&A Act provides that a proponent can request the Minister to modify the approval of a project. The Minister's approval is not required if the project, as modified, will be consistent with the original approval. The approved subdivision plan is illustrated in Appendix 1 of the project approval and is therefore subject to the requirements of Section 75W(2).

Appendix 1 is referred to in condition 1.15. This condition provides that the final subdivision plan be "generally consistent" with the plan included at Appendix 1 of the approval.

The existing legislative and approvals frameworks already provide for the Proponent to make amendments to the subdivision plan without seeking the Minister's approval provided that the amendments are consistent with the approved subdivision plan.

The Department has considered the Proponent's request to include a condition allowing the Director-General to approve any future modifications to the subdivision plan. However, the Department considers that the appropriate approach for future modifications remains to seek approval under Section 75W(2) where the modification is not consistent with the approved plan. Therefore, the Proponent's request should be refused as it contravenes the requirements of Section 75W(2) of the EP&A Act, and consequently the Department has not recommended a condition of approval in this regard.

## 6. CONCLUSION AND RECOMMENDATIONS

---

Sydney Ports Corporation has approval to construct and operate the Enfield ILC. The Enfield ILC will provide for the transfer of containerised cargo accepted by rail for redistribution by road to markets in central western Sydney.

The modifications to the existing subdivision layout, as proposed by the Proponent, have generally been necessitated by requirements relating to leasing and efficiency of operations.

The Department, in its assessment of the proposed modifications to the subdivision layout, has reviewed the Proponent's Modification Application and assessed the potential impacts associated with the proposed amendments. The Department is of the view that the need and justification provided by the Proponent for the amendments to the subdivision layout are satisfactory and that appropriate operational outcomes would be maintained.

However, the Department does not agree to the Proponent's request to include a condition of approval permitting the Director-General to approve any future modifications to the subdivision plan, rather than follow due process under the EP&A Act.

Consequently, the Department recommends that the Director, Infrastructure Projects consider the findings and recommendations of this report and determine to approve the amendments to the subdivision layout only, subject to the recommended conditions of approval (**Appendix B**).

  
27/11/13  
Karen Jones  
**Director**  
**Infrastructure Projects**

## **APPENDIX A    MODIFICATION REQUEST**

---

See the Department's website at <http://majorprojects.planning.nsw.gov.au>.

## **APPENDIX B    RECOMMENDED MODIFYING INSTRUMENT**

---

See the Department's website at <http://majorprojects.planning.nsw.gov.au>.