NSW GOVERNMENT | Planning & Infrastructure

MAJOR PROJECT ASSESSMENT: ICL CEMENT TERMINAL PROJECT (08_0198)

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

June 2013

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EXECUTIVE SUMMARY

Independent Cement and Lime (ICL) Pty Ltd (the Proponent) is seeking project approval for the construction and operation of a cement and ground slag receival, storage and dispatch terminal (the Project) in the Port of Newcastle.

The Project is located on part of the former BHP Steelworks site at Mayfield and within part of the Mayfield Concept Plan area which was approved by the Minister for Planning and Infrastructure in July 2012. The Mayfield Concept Plan was submitted by Newcastle Ports Corporation (NPC) and aims to facilitate the future development of the site for industrial and port related activities and includes dividing the site into various land use precincts.

ICL's proposed terminal would be used to receive, store and distribute cement and slag material for use in the construction and building industry (such as road making and concrete batch plants) across local, regional and state wide markets. The terminal would have a maximum bulk product throughput capacity of approximately 800,000 tonnes per annum (tpa), consisting of 600,000 tonnes of cement and 200,000 tonnes of slag.

ICL presently supplies cement and slag material to markets in Sydney, Newcastle and northern NSW via road transport from its existing bulk cement facility in Port Kembla, NSW. The Project would assist ICL in minimising distances travelled by road, with an estimated saving of around 2.8 million truck kilometres per year by 2015. This would reduce costs, delivery times and greenhouse gas emissions associated with ICL's operations while offering the business potential to expand in the region. The Project would generate approximately 50 full-time equivalent (FTE) construction jobs, 15 FTE operational jobs and have a capital investment value (CIV) of approximately $45 million.

The Project constitutes a transitional 'Major Project' under Part 3A of the Environmental Planning and Assessment Act 1979 (EP&A Act) as it is development for the purposes of a storage or distribution centre that has a capital investment value of more than $30 million and requires the Minister's (or delegates) approval. As the Director-General's environmental assessment requirements (DGRs) were issued in respect of this Project prior to 1 October 2011, the Project is a transitional Part 3A Project.

The Department exhibited the Environmental Assessment for the Project from 4 March 2013 until 8 April 2013 and received twelve (12) submissions, including eight (8) from public authorities, two (2) from the general public and two (2) from special interest groups.

Whilst the public submissions generally recognised that there would be economic benefits associated with the Project, they did raise a number of issues relating to traffic, air quality, noise and vibration impacts and its consistency with the Mayfield Concept Plan.

None of the agencies objected to the proposed development, however, key agencies such as the Environment Protection Authority (EPA), Office of Environment and Heritage (OEH), Council of the City of Newcastle (Council), Newcastle Port Corporation (NPC) and the Roads and Maritime Services (RMS) raised issues relating to waste, contamination and remediation, access and stormwater management.

ICL responded to the issues raised by agencies and the public in its Response to Submissions Report which was made publicly available.

The Department is satisfied that the Project is consistent with the land use precincts indentified in the Mayfield Concept Plan and that it does not conflict with the indicative road and rail infrastructure proposed to service the precincts. In addition, while the Project is a stand alone proposal, the recommended conditions reflect both the intent and requirements of the conditions of approval for the Mayfield Concept Plan. This would ensure that the Project fits within the overall framework created by the concept approval to determine the environmental capacity of the site. As such, the Department is satisfied that the impacts are acceptable and can be adequately mitigated and managed, and has recommended a broad range of conditions to ensure this occurs.

Further, the Department considers that the Project would contribute towards satisfying demand for cement and slag for markets in Sydney, Newcastle and northern NSW regions. On balance, the Department believes that the Project's benefits sufficiently outweigh its residual costs and that it is therefore in the public interest and should be approved, subject to strict conditions.

1. BACKGROUND

1.1 Project Setting

Independent Cement and Lime Pty Ltd (ICL, the Proponent) is a specialist supplier of cement and cement-blended products for the construction, building, road making and agricultural industries and supplies major retail outlets throughout Victoria and New South Wales.

ICL proposes to construct and operate a cement and ground slag receival, storage and dispatch terminal, referred to as the Project, in the Port of Newcastle. The terminal would be used to receive, store and distribute up to 800,000 tonnes of cement and slag per annum to local, regional and state-wide markets for use in the building and construction industry such as in concrete batching plants and for road building projects.

The site is located in the Southern Arm of the Hunter River in the Port of Newcastle (see Figure 1). The proposed terminal is located in the south-eastern portion of the land contained within the Mayfield Concept Plan (see Figures 2 and 4) on land legally described as Part Lot 333 DP 1176879.

Figure 1: *Regional Context*

The Project is located on the former BHP Steelworks site which was recently remediated for the development of port related activities (see Section 1.3). The remediation works involved the site being levelled and capped with 500mm of semi-permeable membrane (coal wash). As such, it is currently vacant, containing no structures, trees or other vegetation.

On 16 July 2012, the Minister for Planning and Infrastructure approved the Mayfield Concept Plan (MP 09_0096) which aims to facilitate the development of the site for future industrial and port related development over an approximate 90 hectare (ha) area. The approval also aims to develop the site in a coordinated and environmentally sustainable manner and establishes general land use precinct boundaries for the future industrial and port activities. The proposed ICL Project is generally located within the 'General Purpose Precinct' of the Mayfield Concept Plan area as illustrated in Figure 4 and as discussed in more detail in Section 1.5 of this Report.

The Mayfield Concept Plan site is being developed progressively and with ongoing changes in port technology, requires a high level of flexibility to accommodate future trade needs and demand. As such, the boundaries of the ICL Project are yet to be finalised within Lot 333 DP 1176879. Notwithstanding, the Project would be generally in accordance with the plans submitted as part of this application, have an approximate area of 2.45 ha and would be determined at the time the lease is finalised between ICL and NPC.

The main vehicular access to the site is from Selwyn Street via Industrial Drive, which connects to the Pacific Highway and New England Highway to the north west. Rail and ship berthing facilities are located nearby, with additional berthing facilities and rail sidings proposed under separate applications.

The main land uses surrounding the site are industrial and port related (see Figure 2) and include:

- North – Kooragang Island industrial area including Kooragang Island shipping berths, Port Waratah Coal Services, Cargill Australia, Kooragang coal loading terminal, Blue Circle Cement, Newcastle Coal Infrastructure Groups coal export terminal and Port Hunter Commodities and Sims Metals;
- South – Port Waratah Coal Services Carrington Coal Terminal;
- East – the southern tip of Kooragang Island industrial area comprising various industrial land uses including Chemtrans (truck depot for chemical transport operations), Air Liquide (a gas facility), Orica (ammonium nitrate production facility), Australian Cement (bulk cement silo), Incitec (currently vacant parcel of land) and ship unloading births; and
- West – OneSteel and Koppers.

Land located immediately west and south-west of the site is associated with the future Intertrade Industrial Park (IIP) albeit, it is unlikely to proceed. This land is generally vacant and comprises the remainder of the BHP Closure Area.

The nearest residential areas include Mayfield which is located approximately 1.4km to the west of the site on the opposite side of Industrial Drive, Tighes Hill which is located approximately 1.5km to the south-west, Carrington which is located approximately 1.5km to the south, and Stockton which is located approximately 1.7km to the south-east across the Hunter River. A number of schools and childcare centres are located in these surrounding residential areas.

Figure 2: *Site Location and Local Context*

1.2 Site History

The Project site lies within the south eastern portion of the former BHP Steelworks site (see Figure 2), which is more commonly known as the Mayfield Port-Side Land. It has a long history of industrial use and was formerly used for copper smelting from 1866 to 1893, followed by iron and steelmaking by BHP between 1915 and 1999. Operations associated with the steelworks ceased in 1999, and the BHP Steelworks site has remained unoccupied since that time.

The Department of Environment, Climate Change and Water (now EPA) declared the BHP Closure Area to be a significant risk of harm (SROH) site under Section 21 of the *Contaminated Land Management Act 1997.* As such, the BHP Closure Area required remediation.

Ownership of the BHP Steelworks site was transferred from BHP to the NSW Government in 2002. The land was originally managed by the Regional Land Management Corporation (RLMC), however management of the site was transferred to the Newcastle Ports Corporation (NPC) in 2008. The land is still wholly owned by the State of New South Wales and managed by NPC.

A number of approvals have been issued on the BHP Steelworks site since the closure of the steelworks in 1999, including:

(i) DA 293-08-00 - Mayfield Port Side Land Remediation and Multi-purpose Terminal;
(ii) DA 10_0203 - NPC Capital Strategic Dredging Program; and
(iii) MP 09_0096 - Mayfield Concept Plan.

These approvals are discussed in the following sections.

In addition, the Minister for Planning and Infrastructure approved a Part 3A application by Marstel Pty Ltd (on 8 June 2012) for the construction and operation of a bulk liquid fuel storage facility within the Mayfield Concept Area. The Marstel Project is currently being constructed and would be used to receive, store and distribute finished diesel and biodiesel products to the Hunter and Gunnedah regions. Stolthaven (formerly Marstel) has lodged a modification application to increase the storage and through-put capacity of the facility.

1.3 Mayfield Port Side Land Remediation and Multi-purpose Terminal (DA 293-08-00)

The then Minister for Planning granted staged development consent in April 2001 for the remediation of the entire BHP Closure Area, including the demolition and removal of structures, and the construction and operation of a Multi-Purpose Terminal in two stages (which incorporated the IIP site), comprising of a Container Terminal and General Cargo Handling Facility as stage 1, and a Bulk Handling Terminal as stage 2.

Remediation works commenced in 2006 in accordance with this Consent and the Voluntary Remediation Agreement (VRA) which was entered into between HDC (formerly Regional Land Management Corporation) and the EPA (formerly DECCW) in 2005.

A Contaminated Site Management Plan (CSMP) and Remediation Action Plan (RAP) were developed to inform the VRA and define the remedial requirements for the whole BHP Closure Area. A Solid Waste (Soils) Materials Management Plan (MMP) was also prepared and defines the requirements for classification and re-use of excavated fill within the site.

The Department considers that the site can be made suitable for development in accordance with Clause 7 of SEPP 55 and subject to the Site Auditor confirming compliance with the conditions contained in the CSMP and works undertaken in accordance with the RAP, MMP and VRA.

The VRA divided the site into two (2) areas according to degree of contamination (see Figure 3) whilst the remediation works were divided into three stages. Area 2, the less contaminated portion of land, comprises the Mayfield Concept Plan Approval area (see Section 1.5) and the adjoining IIP site.

Stage 1 works were completed in June 2008 and included remediation of the most contaminated portion of the site (Area 1) as well as site drainage works. The Stage 2 remediation works were completed in late 2012 for the land covered by the Mayfield Concept Plan Approval and involved re-

contouring of the site and installation of a low permeability cap (approximately 500mm thick). The remainder of Area 2 (the adjoining IIP site) would be remediated separately as part of Stage 3 remediation works.

This approval also included the construction of four (4) berths however, only one (1) berth has been constructed to date. This is because dredging works required prior to the construction of each berth are the subject of a separate development application that is yet to be approved (see Section 1.4).

The constructed berth is referred to as Mayfield No.4 Berth. It became operational in 2010 and provides facilities to allow importation and exportation of a range of cargo types.

Whilst the Stage 1 and 2 remediation works and Mayfield Berth No. 4 construction works approved under this consent have been completed, the development of the site as a multi-purpose container terminal did not proceed as it was not considered to reflect the current and coordinated approach to development of the site. The Mayfield Concept Plan application represented a better development solution for the site and was therefore submitted to the Department in 2010 and is discussed in further detail in Section 1.4 and 1.5.

1.4 NPC Capital Strategic Dredging Program (10_0203)

NPC proposes to develop twelve (12 berths) in the Port of Newcastle. Berths 1 to 4 were approved as part of the Land Remediation and Multi-purpose Terminal project (DA 293-08-00) described in Section 1.3. NPC Capital Strategic Dredging Program (10_0203) would involve the construction of the remaining eight (8) berths and dredging works associated with all twelve of the berths.

The dredging works would assist in increasing the Ports capacity, diversify trade through the Port area and promote the development of vacant industrial land.

It is envisaged that the dredging works would be undertaken progressively subject to market demand, detailed design and obtaining the relevant approvals.

As discussed in Section 1.3, Berth 4 has been constructed and is currently operational. The Project involves the use of the existing Berth 4 until such time that Berth 3 has been constructed.

Figure 3: *Remediation Areas*

1.5 Mayfield Concept Plan (MP 09_0096)

The Mayfield Concept Plan (MP 09_0096) was approved by the Minister for Planning and Infrastructure on 16 July 2012. The Mayfield Concept Plan was developed to ensure that future port related development on the site would be undertaken in a coordinated and environmentally sustainable approach. The Mayfield Concept Plan aims to avoid a fragmented and ad hoc planning process and provide flexibility for the Proponent to consider project options within an overall envelope. The Mayfield Concept Plan provided a framework for the site including goals and criteria for noise and air quality impacts and traffic generation.

The Mayfield Concept Plan site comprises an area of approximately 90 hectares and is located on the northern part of the former BHP Steelworks site at Mayfield.

The Mayfield Concept Plan divides the site into five (5) key precincts (see Figure 4) which are proposed to be developed progressively over the next 25 years, reaching peak operations by 2034.

The five (5) precincts and their intended uses include:

- **NPC Operational Precinct** (3 hectares) – for managing operations by NPC within the Port of Newcastle.
- **Bulk and General Precinct** (12 hectares) – to be used for handling and storing non hazardous dry bulk products.
- **General Purpose Precinct** (25 hectares) – for handling and storing cargo containers, heavy machinery, break bulk and Roll On Roll Off cargo.
- **Container Terminal Precinct** (35 hectares) – for the storage and transfer of containers.
- **Bulk Liquid Precinct** (15 hectares) – for the receivable, storage, blending and distribution of fuels, including biofuels.

New road and rail infrastructure, along with the provision of services, form part of the Mayfield Concept Plan approval. As landowners, NPC would provide the infrastructure and services to individual site boundaries. However, a timeframe for their provision has not been determined and would depend on how the land is developed over time.

The ICL Cement Terminal project site is located within the Mayfield Concept Plan area and would occupy around 2.45ha and is mainly located in the 'General Purpose Precinct'. Should the Project be approved, proposed conditions would ensure that overall environmental impacts of development within the concept area can be linked and managed in accordance with the Mayfield Concept Plan approval. While the Project is mainly located within the 'General Purpose Precinct', a small portion encroaches into the Bulk and General Precinct (see Figure 4). The boundaries of the precincts are indicative only and may be subject to change to accommodate future trade needs and demands.

NPC has stated that the Mayfield Concept Plan is proposed to be developed progressively and therefore a high level of flexibility is required due to likely changing port technology over time. As a result, NPC did not definitively outline the subdivision of land as part of the approval as this would depend on the successive activities that are attracted to the land. Future developments proposed on the land would be the subject of separate development applications to fit within the overall framework outlined by the environmental capacity of the land as determined by the Mayfield Concept Plan.

Whilst it is acknowledged that the ICL Project is to be assessed as a stand alone Project, it is the Department's intent to ensure the Project is consistent with the requirements of the Mayfield Concept Plan Approval. As such the DGRs required that ICL assess the Project against the relevant conditions of the Mayfield Concept Plan Approval.

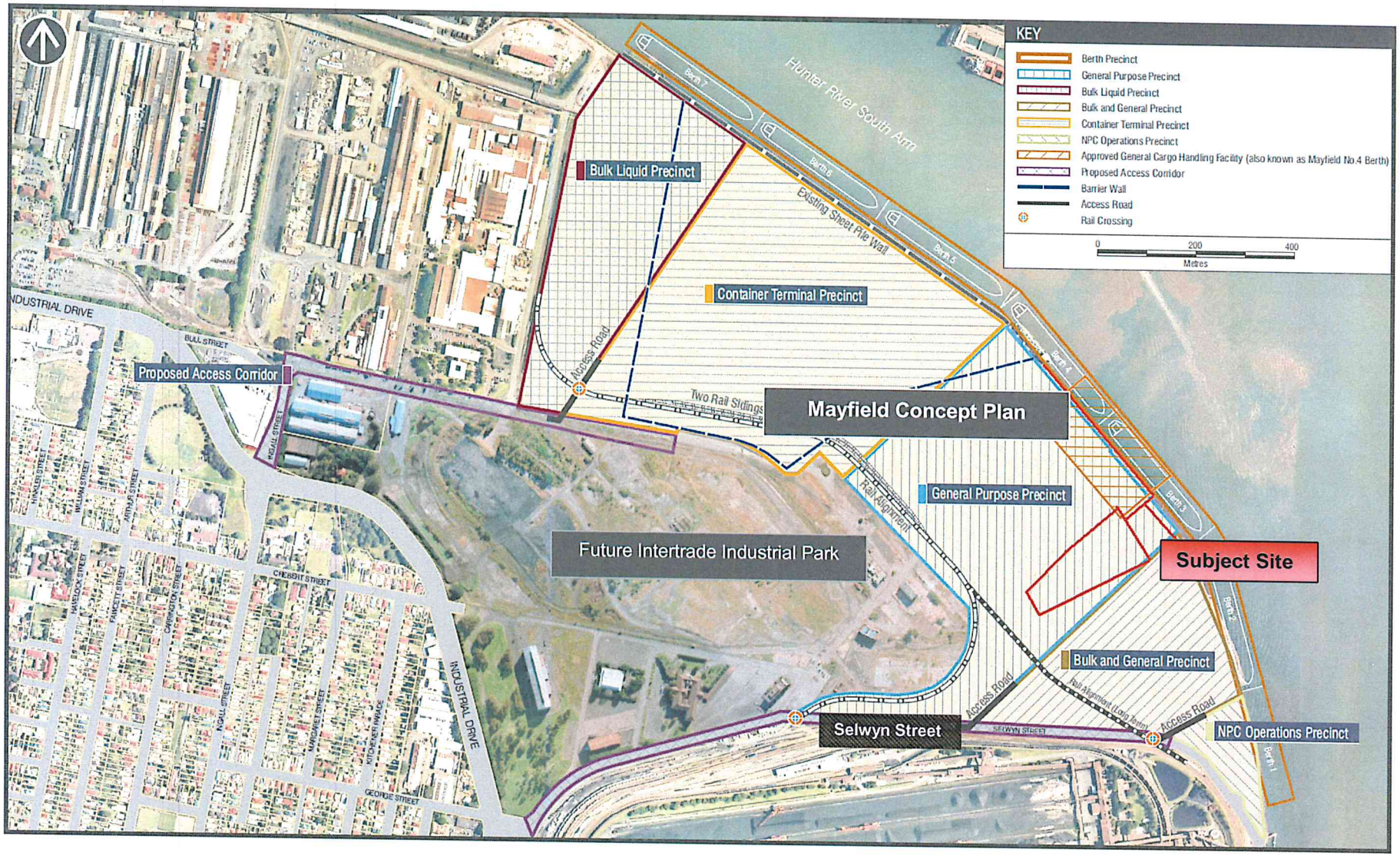


Figure 4: *Mayfield Concept Plan (09_0096), including proposed road and rail access.*

2. PROJECT DESCRIPTION

2.1 Project Description

ICL is seeking project approval for the construction and operation of a cement and ground slag receival, storage and dispatch terminal in the Port of Newcastle.

Cement and ground slag would be imported by ship, unloaded using either self-unloading ships or a Siwertell system that would transfer the cement and slag from the shipping berth via a pipeline to storage silos. From the silos, the material would be distributed by sealed road tankers to local, regional and State wide markets, including concrete batching plants, for use in the building and construction industry.

The proposed terminal would have a maximum bulk product throughput capacity of up to 800,000 tonnes per annum (tpa). The proposed total throughput capacity would comprise around 600,000 tonnes of cement and around 200,000 tonnes of slag.

Generally, cement is a key ingredient for the manufacture of concrete and concrete related products. Slag is a by-product that is generated from the manufacturing of iron and steel. However, recent developments in the cement industry have identified the potential use of slag material as a bonding agent. When ground to a powder, slag has a similar bonding characteristic as cement and is currently used as an additive to cement material.

ICL proposes to receive and distribute 'Ground Granulated Blast Furnace Slag' for use in the manufacture of its Eco-blend brand of cement products. It is considered to be an efficient use of an industrial by-product that would otherwise be sent to landfill.

The major components of the Project are summarised in Table 1, and the Project layout is depicted in Figures 6 and 7. The Project is described in full in the Proponent's Environmental Assessment (EA) (2013) and Response to Submissions Report (2013) at Appendix D and F.

Table 1: *Major components of the Project*

Component	***Description***
Summary of Proposal	• Construction and operation of a cement and ground slag receival, storage and distribution terminal that would have a through put of up to 800,000 tonnes (600,000 tonnes of cement and 200,000 tonnes of slag) per year; • Construction of wharf receival facilities, transfer pipeline and storage silos; and • Additional ancillary infrastructure.
Land	Part Lot 333 DP 1176879, Mayfield North.
Capital investment value	$45 million.
Employment	• 50 full time equivalent construction employees; • 15 full time equivalent operational employees; and • Operational staff would be spread over two shifts with a maximum of 10 on site at any one time.
Ship Unloading Facilities	Construction of a "Siwertell" unloader at Berth No. 3, including enclosed screw conveyors and storage areas for mobile equipment associated with the unloading unit.
Pipeline	Construction of two (2) 400mm wide pipelines that would connect the berth facilities with the Terminal. The pipeline would extend from Berth No. 3 to the terminal's storage silos. In the event that NPC has not completed the construction of Berth No. 3 prior to commencement of operation of the Project, the pipeline would temporarily extend from Berth No. 4.
Compressor Building	Construction of a compressor building containing the pneumatic equipment to allow transfer of the cement and slag from the Berth via the pipeline to the storage silos.
Silos	Construction of two (2) 35,000 tonne capacity silos (30m wide by 53m high).
Site surface	The entire site would consist of a concrete hardstand surface.
Office and Amenities	An administration office including staff amenities would be constructed.
Car parking	15 car parking spaces and an emergency vehicle parking space would be

	provided.
Truck parking and movement	Truck parking is not proposed on site as the Project would include a drive-through loading facility to minimise time spent on the site. The site would be required to comply with the relevant Australian Standards for the internal truck movement and circulation.
Truck loading facility	An enclosed truck drive-through loading facility would be constructed underneath each of the silos.
Maximum Traffic Movements (two-way per day)	Construction • Heavy vehicle movements: 20 • Light vehicle movements: 100 • During the construction of the silos (maximum 4 week period) a maximum of 80 heavy vehicle movements. Operation • Heavy vehicle movements: 116 • Light vehicle movements: 34 • Shipping movements: 32 per year
Access	Both construction and operational traffic would access the site from Selwyn Drive, which is accessed directly from Industrial Drive (a classified road).
Off-site infrastructure and services	NPC is responsible for providing intersections, access ways, services and utilities to ICL's site boundary.
On-site infrastructure and services	Provision of internal access roads and services, including utilities and stormwater drainage, would be ICL's responsibility and would be completed prior to operation.
Hours of Operation	24 hours, 7 days a week.
Construction Duration and Hours of Construction	ICL proposes to construct the facility in two phases, which would be dependent on market demands. • The first stage (Phase 1) would comprise 1x 35,000t silo, transfer pipelines, services and utilities and all hardstand surfaces and is expected to take approximately 22 months; and • The second stage (Phase 2) would comprise the construction of the second 35,000t silo, and would be developed once Phase 1 has reached maximum capacity. Hours of construction would be limited to: • 7am and 6pm Mondays to Fridays; and • 8am to 1pm Saturdays. Construction of the silos and pile caps would occur 24 hours per day for approximately four (4) weeks one (1) week to enable the concrete to be poured continuously.

The Phasing of the Project is dependant upon NPC's scheduling of its construction of the ship unloading facilities at Mayfield Berth No's 3 and 4. In the event that Berth No. 3 has not been constructed in time for the ICL Project, NPC has confirmed that ICL may utilise the existing Berth No. 4 in the interim period.

***Figure 5**: Photograph of a Similar ICL facility*

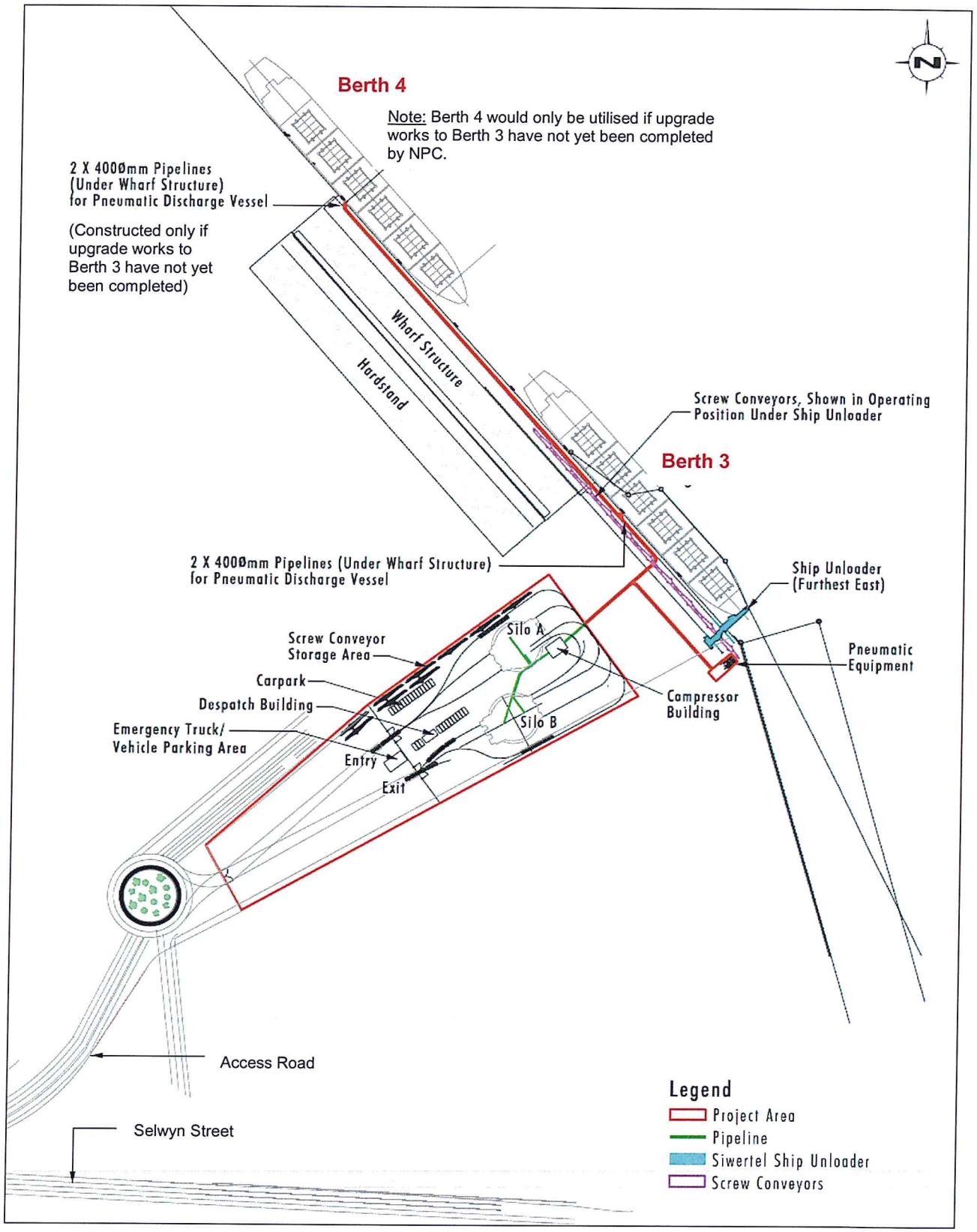


***Figure 6**: Project Layout*

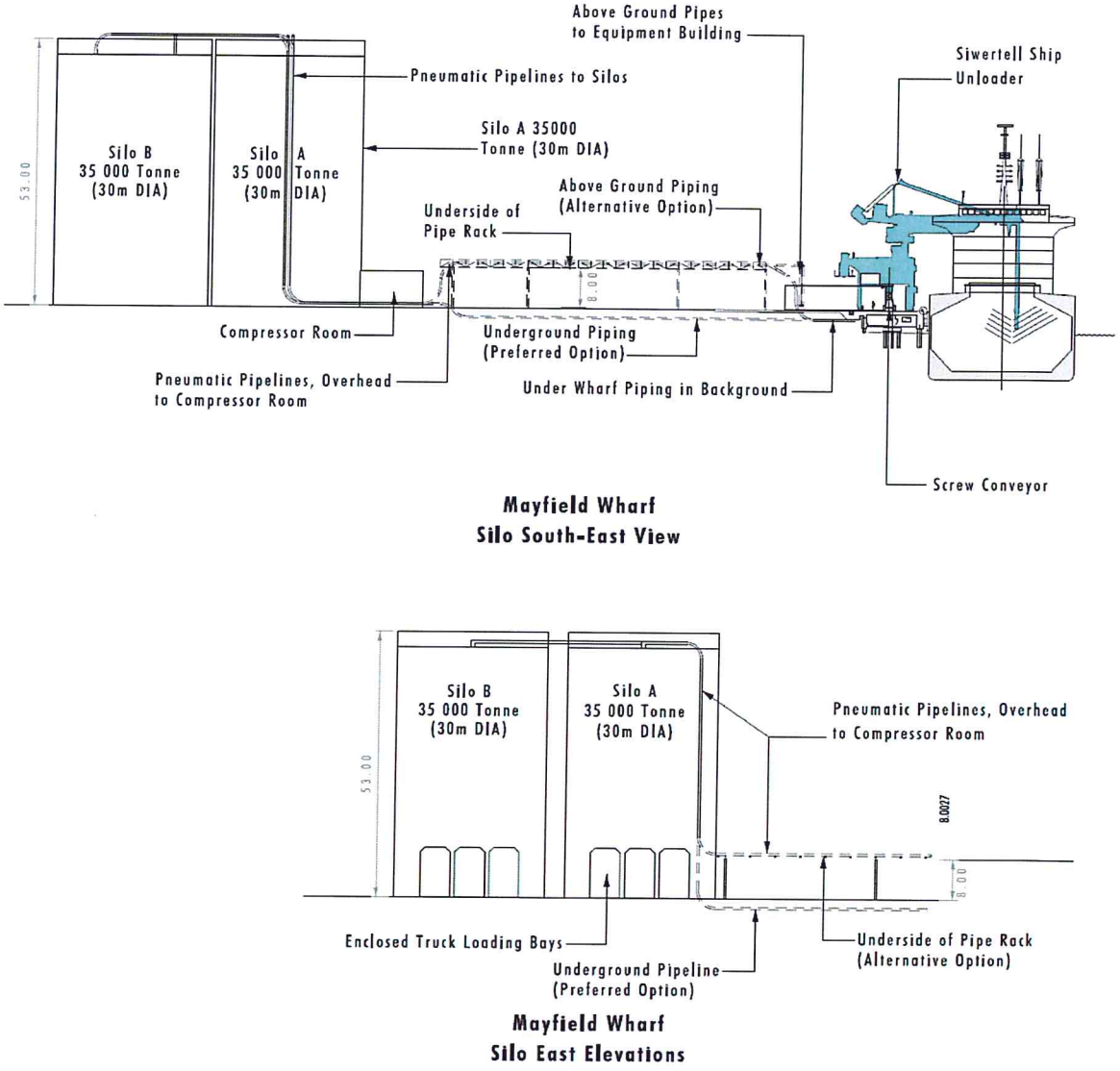


***Figure 7**: Schematic representation of the operational process*

2.2 Project Need

ICL presently supplies cement and slag to markets in Sydney, Newcastle and northern NSW coastal regions via road transport from their existing bulk cement facility in Port Kembla, NSW.

At present, the Proponent currently transports approximately 180 truck loads of cement from its Port Kembla facility to the Newcastle region. The round trip for this journey is approximately 480 kilometres and demand for cement to this region is increasing.

The Project would therefore assist ICL to minimise the distances travelled by road, with an estimated saving of 2.8million truck kilometres per year by 2015. This would reduce costs, delivery times and greenhouse gas emissions associated with ICL's operations while offering the business potential to expand in the region.

3. STRATEGIC AND STATUTORY CONTEXT

3.1 Strategic Context

The Project would stimulate growth in the NSW economy and provide additional employment opportunities in accordance with the objectives of *NSW 2021*. Further, the Project is consistent with the *NSW Ports Growth Plan (2003)* which has a core direction that the former BHP Steelworks site be secured for port use and aims to facilitate the future growth of the Port.

In addition, the recently released *National Port Strategy* (2012) prepared by Infrastructure Australia and the National Transport Commission identifies the importance of ports in Australia and their role in expanding international growth and economic trade.

The *Lower Hunter Regional Strategy (2006)* identifies the need to promote the Port of Newcastle as identified in the *NSW Port Growth Strategy* and facilitate economic growth in the Lower Hunter Region by increasing land and waterfront infrastructure available for port-related activities. The Strategy also aims to ensure sufficient employment lands are available in appropriate locations, including on traditional industrial land. The Project is consistent with the Strategy.

3.2 Major Project

The Project constitutes a transitional 'Major Project' under Part 3A of the Environmental Planning and Assessment Act 1979 (EP&A Act) as it is development for the purposes of a storage or distribution centre that has a capital investment value of more than $30 million and and therefore triggered the criteria in Schedule 1, Clause 10(2)(a) of *State Environmental Planning Policy (Major Projects) 2005*.

3.3 Continuing Operation of Part 3A

Part 3A of the EP&A Act, as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A to the Act, continues to apply to transitional Part 3A projects. Director-General's environmental assessment requirements (DGRs) were issued in respect of the Project prior to 1 October 2011, and the Project is therefore a transitional Part 3A project.

Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove of the carrying out of the Project under section 75J of the EP&A Act.

3.4 Approval Authority

The Minister has delegated his functions to determine Part 3A development applications to the Department where:

- the council has not made an objection;
- there are less than 25 public submissions objecting to the proposal; and
- a political disclosure statement has not been made in relation to the application.

There were four (4) public submissions received that objected to the proposal and Newcastle City Council did not object to the proposal. There has been no political disclosure statement made for this application or for any previous related applications, and no disclosures made by any persons who have lodged an objection to this application.

Accordingly, the application is able to be determined by the Executive Director under delegation.

3.5 Other Approvals

The Proponent would be required to obtain an Environment Protection Licence (EPL) under the *Protection of the Environment Operations Act 1997* (POEO Act). This licence must be approved in a manner that is consistent with any Part 3A approval granted for the Project. The Department has consulted with the EPA and considered the relevant issues relating to the grant of a licence in its

assessment of the Project (see Section 5). The EPA has determined that should development consent be granted, it would be able to issue an EPL subject to conditions.

A licence under Part 5 of the *Water Act 1912* would be required for groundwater inception and management if groundwater is to be incepted as part of the construction activities for the Project. The Department has consulted with the NSW Office of Water (NOW) in respect of this application and has incorporated NOW's requirements into the recommended conditions.

3.6 Permissibility

The Site is zoned SP1 Special Activities under Schedule 3, Part 20 'Three Ports Site' of *State Environmental Planning Policy (Major Development) 2005.* The proposed development is permissible with consent in this zone and is consistent with the objectives of this zone as outlined in Part 20, Division 2, Clause 11(1).

3.7 Environmental Planning Instruments

Section 75I of the EP&A Act requires the Director-General's report to include a copy of or reference to environmental planning instruments that substantially govern the carrying out of the Projects. Those instruments are:

- *State Environmental Planning Policy (Major Development) 2005* (MD SEPP);
- *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP);
- *State Environmental Planning Policy No. 44 – Koala Habitat Protection;*
- *State Environmental Planning Policy No. 33 - Hazardous and Offensive Development* (SEPP 33);
- *State Environmental Planning Policy No. 55 - Remediation of Land* (SEPP 55);
- *State Environmental Planning Policy No. 71 - Coastal Protection; and*
- *Mayfield Port - Related Activities Concept Plan (MP 09_0096).*

The Department has assessed the Project against the relevant provisions contained in the abovementioned instruments and is satisfied that the Project is consistent with the EPIs (see Appendix C).

3.8 Objects of the *Environmental Planning and Assessment Act 1979*

In determining the application, the Minister should consider whether the Project is consistent with the relevant objects of the EP&A Act.

The Department has fully considered the objects of the EP&A Act, including the encouragement of Ecologically Sustainable Development (ESD), in its assessment of the application. The Department considers that objects under Section 5(a)(i), (ii,) (iii), (vi), (vii) are relevant to the merit assessment of this application.

The Department has fully considered the objects of the EP&A Act, including the encouragement of ESD, in its assessment of the Project application. ICL has also undertaken an environmental risk analysis of the Project, and considered the Project in the light of the principles of ESD.

The Department considers that the Project is ideally suited to the site which is located within the area identified for future port-related and industrial development under the Mayfield Site Port-Related Activities Concept Plan. The Project has been designed to meet all current environmental standards and the potential impacts of the Project have been minimised through appropriate site selection, plant design and proposed control measures.

The potential environmental impacts of the Project have been assessed and, where potential impacts have been identified, mitigation measures and environmental safeguards have been recommended. As such, the Department considers that the Project would not adversely impact on the environment and is consistent with the principles of ESD.

4. CONSULTATION

4.1 Exhibition and Notification

During the exhibition period, the Department received a total of twelve (12) submissions on the Project comprising:

- eight (8) from public authorities;
- two (2) public submissions; and
- two (2) from special interest groups.

A summary of the issues raised in submissions is provided below. A copy of each submission is included in Appendix E.

4.2 Public Authorities

The **Environment Protection Authority** (EPA) raised no objection to the Project, however raised concerns about slag material being defined as waste product and as such would require an EPL for its importation to the site. Prior to determining whether an EPL could be issued, the EPA requested additional information relating to the classification and the components of the slag in order to assess any potential impacts from its importation to the site.

The Proponent's Response to Submissions Report did not provide adequate information for the slag to be characterised in accordance with the relevant legislation. Therefore, the EPA has advised that the Proponent would be required to provide additional information prior to an EPL being issued for the importation of slag.

The EPA also provided conditions of approval relating to noise, air quality and contamination. These issues have been addressed in the Department's assessment of the Project (see Section 6.1).

Hunter Development Corporation (HDC) raised no objection to the Project however, it provided a number of comments relating to the provision of roads and services, contamination and remediation management and stormwater. HDC's issues have been addressed in the assessment of the Project.

Council of the City of Newcastle (Council) raised no objection to the Project however, it raised a number of issues relating to the relationship of the Project to the Mayfield Concept Plan Approval. In particular, Council raised concerns with the Project complying with the noise and air quality models and the Utilities and Infrastructure Plan required under the Mayfield Concept Plan Approval. Council also considered that Section 94A contributions would be required for the Project.

Newcastle Port Corporation (NPC) generally supported the Project however, it provided a number of comments in relation to the temporary use of self unloading ships at Berth No. 4 in the event that Berth No. 3 has not been completed. NPC requested the provision of a dedicated emergency truck parking area, that the stormwater pipelines to be underground, and that any required EPL be consistent with the Mayfield Concept Plan Approval. Newcastle Port Corporation issued landowners consent for the Project on 15 September 2009.

NSW Health (NSW Health) raised no objection to the Project but provided a number of comments in relation to monitoring of noise and air quality. NSW Health also recommended conditions for the preparation and implementation of an Emergency Management Plan.

NSW Fisheries raised concern regarding potential spills and leaks from the unloading facilities into the adjoining waterway.

NSW Office of Water (NOW) raised no objection to the Project and recommended conditions be included requiring ICL to obtain relevant water licences if it intercepts or extracts groundwater and for the preparation and implementation of Water, Surface Water and Groundwater Management Plans.

Roads and Maritime Services (RMS) raised no objection to the Project and noted that due to the low trip generation predicted, additional road infrastructure would not be required as a result of the Project.

4.3 Special Interest Groups

Correct Planning and Consultation for Mayfield Group (CPCFM) objected to the Project due to potential impacts on Mayfield and the surrounding area particularly when combined with the impacts associated with redeveloping the Mayfield port-side land as a whole. The main issues of concern to CPCFM are the relationship between the Project and the Mayfield Concept Plan Approval and NPC's obligations under the conditions of the Mayfield Concept Plan Approval, potential impacts of additional truck and ship movements on the safe and efficient operation of the existing road and harbour network, and potential noise and air quality impacts.

OneSteel raise no objection to the Project however, it recommended conditions prohibiting the use of Steelworks Road and OneSteel's power and water infrastructure services.

4.4 Community Submissions

Two (2) community submissions were received during in the exhibition period both of which objected to the Project. Key issues raised in the submissions included:

- NPC's Draft Strategic Development Plan for the Port of Newcastle – it was considered that the ICL Project should only be considered once the Strategic Development Plan for the Port of Newcastle has been finalised;
- the relationship between the Project and the Mayfield Concept Plan Approval – it was considered that the Project should be made to comply with the requirements of the Mayfield Concept Plan Approval and should not be determined until such time that NPC had completed its obligations in relation to the air and noise models and the Utilities and Infrastructure Plan;
- potential air quality, noise and traffic (road and ship) impacts; and
- insufficient assessment of proposed interim measures for the self unloading ships and mobile utilities.

4.5 Response to Submissions

On 19 April 2013, the Proponent issued a Response to Submissions Report, which responded to issues raised in submissions (see Appendix F). The Response to Submissions Report contained additional information and clarifications mainly relating to: operational details, relationship of the Project with other approvals, contamination, access and air quality. This response was made publicly available on the Department's website.

5. ASSESSMENT

In assessing the merits of the Project, the Department has considered:

- the EA, submissions and response to submissions on the Project (see Appendices D to F);
- the EA, submissions and response to submissions on the Mayfield Concept Plan;
- the relevant environmental planning instruments, guidelines and policies (see Appendix C); and
- the objects of the EP&A Act, including the object to encourage ecologically sustainable development.

The Department's considers the key issues associated with the Project are:

- Transport and Access;
- Noise and Vibration; and
- Air Quality and Odour

The Department's assessment of the key issues is provided below and the Department's assessment of all other issues is provided in Table 3 of this report.

5.1 Transport and Access

Issue

The Project would generate additional truck and ship movements on the local traffic network as a result of the receipt and distribution of cement and slag materials.

Consideration

The Environmental Assessment for the Project considered the predicted traffic generation of the Project, consistency of the Project with the Mayfield Concept Plan approval, the acceptability of the associated traffic impacts and recommended measures to mitigate residual impacts.

Site Access

The Project proposes site access directly from Selwyn Street in accordance with the Mayfield Concept Plan Approval. Under the Mayfield Concept Plan approval, NPC are required to provide various road and service related infrastructure, including an access road to the boundary of the Project Site. The Proponent has specified that the proposed site access from Selwyn Street will be utilised for both the construction and operational phase of the Project.

A construction access route currently exists from Selwyn Street which is utilised for the Marstel Bulk Liquid Facility. The Department understands that should NPC not complete the site's proposed access route prior to ICL commencing construction, NPC would allow ICL to utilise the existing construction route.

Construction and Operational Traffic

The Mayfield Concept Plan approval also established an environmental envelope of potential impacts, including setting road and ship quotas from the proposed development 'Precincts'.

Construction of the Project is expected to generate around 20 heavy vehicle movements and 100 light vehicle movements per day. The expected traffic generation from the operation of the Project is outlined in Table 2.

Table 2: Project Traffic Generation and Mayfield Concept Plan Quota

	Proposed ICL Terminal	General Purpose Precinct Quota (Mayfield Concept Approval)	Percentage of Quota
Truck Movements (per day)	116	224	52%
Ship	32	100	32%

Movements (per annum)		(General Purpose and Bulk and General Precincts Combined)	

As outlined in Table 2, the expected truck movements are well within the approved 'General Purpose Precinct' quota of 224 truck movements.

The Mayfield Concept Plan anticipated that combined, the 'General Purpose' and 'Bulk and General Precincts' would both require around 100 ship movements per annum. The expected ship movements are well within the anticipated ship movements for the combined Precincts. Further, the overall Mayfield Concept Plan is expected to generate around 560 ship movements per annum, which is well within the projected capacity for the Port of Newcastle.

While the Project would occupy (in ha) approximately 10% of the 'General Purpose Precinct', it would utilise around 52% of the truck movement quota and around 32% of the anticipated ship movements from the 'General Purpose Precinct' and 'Bulk and General Precinct'.

NPC raised no concerns with the Project's use of the Precincts truck and ship movement quota, particularly given the level of flexibility required for the wider Concept Plan and the anticipated fluctuations in traffic demands as the Concept Plan responds to market requirements over time.

Further, the Department understands that the 'Container Terminal Precinct' may no longer proceed (given the expansion of Port Botany). This precinct was anticipated to generate the most truck and ship movements, which would therefore allow the quota to be re-distributed.

Council and RMS did not raise any issues in relation to traffic impacts. Notwithstanding, careful management of construction and operational traffic would be required to ensure the existing operation of local roads and safety of users/construction workers is not impacted by the Project. Further, the Proponent has committed to preparing a Construction Traffic Management Plan (TMP) in consultation with RMS and Council.

Conclusion

The Department is satisfied that, subject to the implementation of the recommended conditions, the Project would not adversely impact on local traffic. The Department considers that traffic impacts associated with the wider Mayfield Concept Plan approval have been previously assessed and considered acceptable.

Key conditions of approval recommended by the Department include the requirement for the Proponent to:

- ensure access to the site is provided prior to ICL commencing construction;
- prepare Construction and Operational TMP's; and
- undertake traffic monitoring and provide data annually to NPC for its inclusion into the Mayfield Concept Plan monitoring programs and assessment models.

5.2 Noise and Vibration

Issue

The Project could result in increased noise impacts on nearby receptors. As such, careful consideration needs to be given to the implementation of all reasonable and feasible measures to reduce noise impacts.

Consideration

The Environmental Assessment for the Project considered the noise impacts of the Project, the relevant criteria contained within the Mayfield Concept Plan Approval, the acceptability of the associated noise impacts and recommended measures to mitigate residual impacts.

The Environmental Assesssment for the Project included a noise impact assessment carried out by Umwelt (Australia) Pty Ltd.

Noise would be generated by the Project during both construction and operational stages. The key noise sources during construction include noise from machinery associated with earthworks and general construction activities.

Operational noise would primarily result from activities associated with ship unloading, pipeline use, operational truck movements, berthed ships and plant and baghouse cleaning activities. The terminal is proposed to operate 24 hours, 7 days.

The Mayfield Concept Plan Approval specifies day, evening and night time noise goals at sensitive receivers surrounding the site. The nearest residential receivers are located in Mayfield approximately 1.4km to the west of the site across Industrial Drive.

The Noise Impact Assessment (NIA) found that maximum operational noise levels would be around 36 dBA at the closest receiver which is within the noise goals under the Mayfield Concept approval. Furthermore, the NIA demonstrated that the Project would comply with the sleep disturbance, construction noise and road traffic noise criteria contained in the Noise Guide for Local Government, Interim Construction Noise Guidelines and the NSW Road Noise Policy.

Vibration would be limited to pile driving activities and impacts are expected to be minimal given the 1.4km separation distance to sensitive receivers.

The EPA did not raise any concerns regarding noise or vibration impacts from the Project.

Conclusion

The Department is satisfied that, subject to the implementation of the recommended conditions, the Project would not adversely impact on the nearby receptors. The Department considers that noise impacts associated with the wider Mayfield Concept Plan approval have been previously assessed and considered acceptable.

The Department has recommended that the Project's noise predictions and monitoring results be included in the wider Concept Plan Site Noise Model. The Noise model is currently being prepared by NPC and will allow for the assessment of the cumulative noise impacts of the wider Mayfield Concept Plan site.

Standard construction times are proposed in accordance with the Interim Construction Noise Policy, however the Department accepts that 24 hour construction of the silos (around a 4 week period) is required and acceptable subject to approval of a Construction Noise Management Plan prior to construction.

The Department considers that noise and vibration impacts would be managed appropriately subject to the implementation of the recommended conditions. Key conditions of approval recommended by the Department include the requirement for the Proponent to:

- comply with standard construction times, with the exception of silo construction (24 hours, 7 days);
- prepare Construction and Operational Noise Management Plans;
- comply with project specific noise levels determined in the submitted Noise Impact Assessment; and
- comply with the sound power levels developed under the Mayfield Concept Plan Approval.

5.3 Air Quality and Odour

Issue

The Project could result in increased air quality and odour impacts on nearby receptors. As such, careful consideration needs to be given to the implementation of all reasonable and feasible measures to reduce air quality and odour impacts.

Consideration

The Environmental Assessment for the Project considered the air quality impacts of the Project, the relevant criteria contained within the Mayfield Concept Plan Approval, the acceptability of the associated air quality impacts and recommended measures to mitigate residual impacts.

The Environmental Assesssment for the Project included An Air Quality Assessment (AQA) carried out by Umwelt (Australia) Pty Ltd in accordance with the EPA's requirements.

The AQA found that air quality and odour emissions would be generated from the handling/transfer of cement and ground slag from ships to the silo(s), as well as some minor dust emissions during construction activities.

Air quality impacts from site contamination was not considered to be an issue as it was considered that polycyclic aromatic hydrocarbon (PAH) and volatile organic compound (VOC) contained within the wider NPC site would not be encountered given the Project site is not located within the highly contaminated area of the wider NPC site and given the sites proximity to sensitive receptors (approximately 1.4km to the west of the site).

The Proponent proposes to implement standard mitigation and management techniques to manage any potential dust impacts during construction. During operation, additional design measures such as the use of negative pressure enclosures and dust extraction systems have been proposed to manage any dust impacts.

The AQA demonstrated that the Project's PM10, total suspended particles (TSP) and deposited dust contributions would be negligible and well below the relevant air quality goals (ie. EPA and Concept Plan goals). Further, the AQA considered odour impacts from the Project are not anticipated as cement and slag is not considered to be odour generating.

The EPA provided recommended load limits and air quality criteria which would be included in an EPL should the Project be approved.

Conclusion

The Department considers that air quality impacts would be managed appropriately subject to the implementation of the recommended conditions. Key conditions of approval recommended by the Department include the requirement for the Proponent to:

- implement dust mitigation measures during construction;
- prepare an Air Quality Management Plan;
- ensure compliance with load limits and air quality criteria contained in the EPL;
- cease operation and implement dust mitigation measures when dust is visible for more than 10 minutes; and
- ensure the Project does not cause or permit offensive odour.

5.4 Other Issues

Table 3: Assessment of Other Issues

Issue	Consideration	Recommended Conditions
Contamination	▪ Detailed remediation works and management measures have been developed as part of the re-development of the BHP Closure area (see Section 1.3). ▪ Future development on the Mayfield Concept Plan site requires confirmation from the Site Auditor that the proposed development complies with the detailed management measures and is suitable for its intended use. ▪ Remediation of the Mayfield Concept Plan site included the installation of a 500mm low permeability cap. ▪ Construction of the Project would involve shallow excavations for the pipelines and footings to a depth of around 1m which would disturb the low permeability cap. ▪ Minimal disturbance of contaminated soil is permitted, provided it complies with the sites remediation management measures and is endorsed by the Site Auditor. ▪ The Proponent's preferred remediation strategy (cap and contain) aligns with the intended use of the site and the site's remediation management requirements. ▪ A Phase 2 Site Assessment concluded that the remediation of the Project site would be achievable and, following remediation, would be suitable for the proposed development. ▪ Council and the EPA did not raise any issues in relation to site contamination however, they did recommend conditions should the Project be approved. ▪ NSW Health did not raise any objection to the project however, did raise concerns that consideration should be given to protecting the health of the community. ▪ The Department considers that the Project site can be made suitable for the proposed development subject to compliance with the site's detailed remediation management measures and the satisfaction of the Site Auditor.	Recommended conditions require the Proponent to: ▪ carry out the Project in accordance with the requirements of the CSMP, VRA, RAP and MMP; ▪ obtain Site Auditor confirmation that construction works meet the requirements of the CSMP, VRA, RAP and MMP; ▪ obtain Site Auditor confirmation that the site is suitable for the proposed development prior to operation; ▪ ensure any groundwater monitoring wells are not damaged; and ▪ prepare a human health risk validation prior to construction.
Soil and Water	▪ As the site has been capped, limited infiltration and potential groundwater interaction or recharge is expected to occur. ▪ The remediation works for the BHP Closure Area, included the installation of trunk stormwater drainage lines. ▪ Stormwater generated on the site would flow into the existing trunk drainage prior to discharge into the South Arm of the Hunter River. ▪ Prior to any stormwater leaving the site, it would pass through a first flush system designed to capture any sediment. ▪ Construction of the ICL Project would involve shallow excavations which would be managed through the implementation of a Soils and Water Management Plan and standard erosion and sediment controls. ▪ In regard to operation, no erosion or sediment impacts are anticipated as there are no exposed ground areas. ▪ As the Project includes capping of the site with a concrete hardstand, this would further minimise infiltration and potential mobilisation of contaminants during the operation. ▪ Similarly, no water quality impacts are predicted to occur given that the transfer of cement/slag would be undertaken in a negative pressure enclosed system. ▪ Neither Council nor the EPA raised concerns soils and water issues. ▪ The NOW recommended conditions requiring ICL obtain the relevant water licences if groundwater would be intercepted or extracted as part of the Project and for the preparation and implementation of Water, Surface Water and Groundwater Management Plans. ▪ With the recommended conditions, the Department is satisfied that the potential risks associated soils and water can be effectively	Recommended conditions require the Proponent to: ▪ implement suitable erosion and sediment control measures on site during construction; ▪ ensure that all surface water discharges from the site comply with the discharge limits set for the Project in any EPL; ▪ design and maintain the stormwater and drainage system for the Project in consultation with HDC, NPC and the Site Auditor; and ▪ prepare and implement a Stormwater and Drainage

Issue	Consideration	Recommended Conditions
	managed.	Management Plan for the Project.
Visual	▪ The Project is located within an area characterised by heavy industrial and port-related uses, including port loading works, berths and steel and chemical manufacturing. ▪ Within the Mayfield Concept area, the approval of the Marstel bulk liquid facility included the construction of three 18m high storage silos. ▪ The ICL Project includes the construction of a number of structures, the most prominent of which would be two 53m high storage silos. ▪ Existing developments on Kooragang Island include structures up to 84m in height. ▪ To manage visual impacts, the Proponent proposes to utilise low reflective materials to minimise glare and to control on-site lighting to manage light spillage in accordance with Australian Standards. ▪ No concerns were raised by either council or community submitters. ▪ The nearest residential viewpoints are located in Mayfield approximately 1.4km to the west of the site, which would reduce the potential visual impacts of the proposal. ▪ Vantage points into the site exist from the Newcastle, Stockton and Mayfield residential areas, Industrial Drive, the Hunter River and the surrounding industrial area. However, the majority of these views are limited by topography and are screened or obstructed by existing buildings and intermittent stands of vegetation. ▪ The Department considers that due to the significant industrial setting which exists in the area and the heights of certain existing structures, that the visual impacts of the Project would not be significant. ▪ Notwithstanding, the Department has recommended conditions to minimise the potential visual impacts of the Project.	Recommended conditions require the Proponent to: ▪ prepare a Lighting and Material Finishes Management Plan; ▪ utilise building materials that minimise visual impacts; and ▪ ensure that any lighting complies with relevant AS and is mounted, screened and directed such that it does not create a nuisance.
Utilities and Services	▪ Under the Mayfield Concept Plan approval, NPC is responsible for the provision of utilities and services to the boundary of each future project. ▪ NPC has indicated that some flexibility would be required for the provision of utilities and services as it would be based on user demand. ▪ Services within the site would be constructed by ICL and would connect to NPC's services provided to the site boundary. ▪ The Department considers that utilities and services to and within the site would be appropriately managed between the Proponent and NPC.	Recommended conditions require the Proponent to; ▪ ensure that utilities and services are provided to the site boundary prior to construction of the Project.
Greenhouse Gas	▪ A Greenhouse Gas Assessment (GGA) was undertaken for the Project which assessed Scope 1, 2 and 3 emissions. ▪ The GGA identified the following GHG sources: - Scope 1 emissions: transport fuel use; - Scope 2 emissions: electricity consumption; and - Scope 3 indirect emissions that the operation has no direct control over: embedded emissions in cement and slag, diesel combustion during unloading operations, energy extraction and transmission and outsourced transport. ▪ The assessment found that the Project would generate approximately 7,900 tonnes CO2-e per year of Scope 1 emissions which represents 0.0015% of Australia's national emissions (~46Mt CO2-e per year) by 2020. ▪ Scope 2 and 3 emissions would equate to approximately 685,000 tonnes CO2-e per year, however the Proponent indicated that these emissions should not be considered against the national objectives, as these emissions would be reported by other sectors of the Australian economy and ICL has direct control over only approximately 1% of these emissions. ▪ The EPA raised no concerns regarding GHG. ▪ The Department notes that the Project would result in a reduction of	Recommended conditions require the Proponent to: ▪ implement all reasonable and feasible measures to minimise the release of greenhouse gas emissions from the site; and ▪ prepare and implement a Greenhouse Gas Management Plan for the Project which includes a monitoring program and describes the measures to minimise energy use on site.

Issue	Consideration	Recommended Conditions
	2.8 million truck kilometres travelled per annum, and as such a reduction in greenhouse gas emissions from its current operations. ▪ The Department considers that the Project represents a minor source of greenhouse gas emissions in terms of Australia's national emissions and is unlikely to contribute significantly to climate change. ▪ The Commonwealth's Clean Energy Legislative Package and carbon pricing mechanism also commenced on 1 July 2012. ▪ The legislation aims to provide a coordinated nationwide response to greenhouse gas management, reduce Australia's carbon pollution and provide incentives for industry to move to using clean energy. ▪ The Department is satisfied that the GHG emissions of the project would be acceptable and are likely to continue to improve as a result of recommended conditions and the new Commonwealth legislation.	
Waste	▪ Construction activities are not expected to generate a significant amount of waste given that works predominantly involve the assembly of modular/prefabricated components. ▪ Operational waste would predominantly include general office, workshop and waste from general maintenance activities. ▪ The Project proposes to receive slag at the terminal. ▪ The EPA raised concerns that slag may be classified as waste and as such requested further details be provided on its components to ensure it meets the EPA's requirements. ▪ As such, prior to any slag being received at the terminal the Proponent would need to provide further details prior to obtaining an EPL for the Project. ▪ The Proponent has committed to managing construction and operational waste generated from the Project through efficient design, re-use and recycling of materials and consideration of environmental impacts for waste removal processes. ▪ The EPA recommended conditions to ensure that waste would not be received or generated and then disposed of on site, unless otherwise specified by an EPL (ie for the use of slag). ▪ The Department is satisfied that waste from the Project would be adequately managed through measures identified by the Proponent and the implementation of the recommended conditions.	Recommended conditions require the Proponent to: ▪ store, handle and dispose of waste in accordance with applicable guidelines and the EPL.
Hazards and Risks	▪ Potentially hazardous materials stored on site would be limited to small quantities of oil and grease for maintenance of on-site machinery. These materials would be stored in accordance with the relevant Australian Standards. ▪ Cement and ground slag are not considered hazardous materials and therefore, the Project is not considered to be a potentially hazardous development. ▪ The Project would require an EPL as the Project is defined as a Scheduled activity under the PoEO Act, being cement or lime works with a capacity to handle more than 150 tonnes of cement or lime per day or 30,000 tonnes of cement or lime per year. ▪ The EPA has advised that an EPL could be issued subject to a Project Approval being granted. ▪ Fisheries NSW raised concerns over the potential for cement product from the unloading facilities to enter the waterways. ▪ The cement and slag would be transferred via a negative pressure enclosed system and a maintenance program would be implemented for all plant and equipment. ▪ The Mayfield Concept Plan Approval requires a number of management plans and audits relating to Hazards and Risks in order to manage and mitigate the cumulative impacts on the Concept Plan site. The Department has recommended a condition to ensure the Project is consistent and contributes to the relevant plans and audits. ▪ The Department considers that these measures along with the requirements of the EPA in its EPL would ensure hazards and risks are managed to acceptable levels.	Recommended conditions require the Proponent to: ▪ prepare and implement a Fire Safety Study prior to construction of the Project; ▪ prepare and implement an Emergency Plan in consultation with NPC; and ▪ contribute where applicable, to the plans and audits required under the Mayfield Concept Plan Approval in consultation with NPC.
Development	▪ The Mayfield Concept Plan approval requires any future projects	Recommended

Issue	Consideration	Recommended Conditions
Contributions	associated with the Concept Plan to be subject to Section 94A development contributions levies. ▪ Council requested that development contributions be determined in accordance with Council's *Section 94A Development Contributions Plan 2009* and that the contribution be paid prior to the commencement of operation. ▪ The Department considers that the Proponent should pay a suitable contribution in accordance with Council's *Section 94A Development Contributions Plan 2009* prior to the commencement of operation. Should there be a dispute about the amount of the contribution, the matter may be referred to the Director-General for resolution.	conditions require the Proponent to: ▪ pay Council a suitable contribution in accordance with Council's Section 94A Contribution Plan 2009 prior to the commencement of operation.
Heritage	▪ As part of the consent for the remediation and development of the multi-purpose terminal (DA 293-08-00), 22 heritage items were identified on the wider site. ▪ This consent (DA 293-08-00) permitted the demolition of select heritage items and subsequently, an Excavation Permit was issued which requires archaeological monitoring in the vicinity of these items. ▪ As detailed in Section 1.3, remediation works for the Mayfield Concept Plan Approval area have been completed with the heritage items having been removed or buried during the re-contouring and capping of the site. ▪ The CSMP included an Archaeological Management Plan and a Heritage Management Plan, both of which outline requirements and protocols in the event any heritage items are discovered.	Recommended conditions require the Proponent to: ▪ carry out the Project in accordance with the requirements of the CSMP, VRA and RAP; and ▪ prepare and implement a Construction Environmental Management Plan which includes a protocol that would be followed in the event that a heritage item is discovered.

6. RECOMMENDED CONDITIONS

The Department has prepared recommended conditions of approval for the Project (see Appendices A and B). These conditions are required to:

- prevent, minimise, and/or offset adverse impacts of the Project;
- set standards and performance measures for acceptable environmental performance;
- ensure regular monitoring and reporting; and
- provide for the ongoing environmental management of the Project.

The Department is also satisfied that the recommended conditions fully reflect both the intent and requirements of the conditions put forward in the draft approval for the Mayfield Concept Plan.

The Department has provided the draft recommended conditions of approval for the Project to relevant government authorities for comment, and has incorporated these comments into the conditions of approval where appropriate.

The Proponent has also reviewed and accepted the draft conditions.

7. CONCLUSION

The Department has assessed the Project application, EA, submissions on the Project and ICL's response to submissions, in accordance with relevant statutory requirements.

The assessment shows that the key issues relate to transport and access, noise and vibration, air quality and odour, contamination and soil and water. Other lesser issues include hazards and risks,

visual, utility and service provision, greenhouse gas, waste, development contributions, heritage and biodiversity.

The Department has assessed these issues in detail having regard to the objects of the EP&A Act, and the principles of ecologically sustainable development.

The Department is satisfied that the management and mitigation measures proposed and the recommended conditions of approval can effectively reduce the impacts of the Project to acceptable levels.

The Project responds to increased demands for cement and slag from the construction industry and would provide a local terminal that would result in an estimated saving of 2.8 million truck kilometres per year by 2015. This would reduce costs, delivery times and greenhouse gas emissions associated with ICL's operations while offering the business potential to expand in the region. The Project is ideally suited to the site, which is located within the area identified for port-related and industrial development under the Mayfield Concept Plan Approval.

Overall, the Department believes that the Project has been adequately justified on economic, social and environmental grounds and it is in the public interest and should be approved subject conditions.

Finally, the Department is satisfied that the Project is consistent with the land use precincts (and the indicative road and rail infrastructure proposed to service these precincts) as proposed in the Mayfield Concept Plan and that the recommended conditions fully reflect both the intent and requirements of the conditions put forward in the terms of approval for the Mayfield Concept Plan.

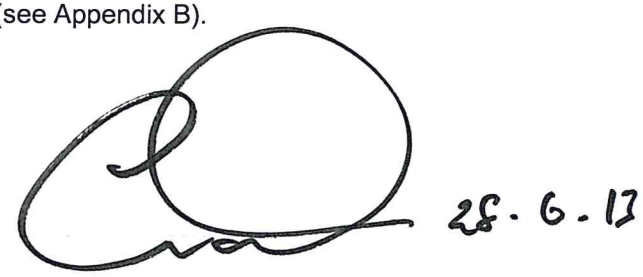
Notwithstanding this, the Department is also satisfied that the proposal is permissible on this land and that it is capable of being developed as a stand alone Project even if the Mayfield Concept Plan does not proceed.

8. RECOMMENDATION

It is RECOMMENDED that the Executive Director, Development Assessment Systems and Approvals:

- **consider** the findings and recommendations of this report;
- **approve** the Project Application, subject to conditions, under Section 75J of the *Environmental Planning and Assessment Act 1979*; and
- **sign** the attached Project Approval (see Appendix B).

Chris Ritchie 28/6/13
Manager – Industry
Mining and Industry Projects



Chris Wilson
Executive Director
Development Assessment Systems and Approvals

APPENDIX A: SUMMARY OF CONDITIONS OF APPROVAL

Aspect	Condition	Requirement
Schedule B: Administrative Conditions		
Terms of Approval	B7	Restriction on receival, storage and dispatch of cement and slag
Development Contribution	B16	Requirement to pay suitable development contributions to Council in accordance with any applicable Section 94A Contribution Plan within 12 months of this approval.
Schedule C: Specific Environmental Conditions		
Contamination and Remediation	C1-3	Statutory requirements and endorsement by Site Auditor
	C4	Groundwater Monitoring Wells
	C5	Human Health Risk
	C6	Imported Soil
Traffic and Access	C7-8	Compliance with Australian Standards, operational and parking requirements
	C9	Traffic Monitoring
	C10-11	Construction Traffic Management Plan and Construction Access Route
	C13-14	Operational Traffic Management Plan and Operational Access Route
Air Quality	C15	Odour
	C16	Greenhouse Gas
	C17-19	Air quality discharges
	C20	Air Quality Management Plan
Noise	C21-22	Construction and Operational Noise Criteria
	C23	Mayfield Concept Plan Noise Model
	C24-25	Operational Conditions
	C26	Construction Noise Management Plan
	C27	Operational Noise Management Plan
Soil and Water	C28-29	Erosion and Sediment Control
	C30	Water Licences
	C31	Surface Water Discharge Limits
	C32	Stormwater and Drainage System
	C33	Water Management Plan
Waste Management	C34	Waste Generation
	C35	Waste Management Plan
Visual Amenity	C36	Lighting and Material Finishes Management Plan
	C37	Signage and Fencing
Utilities and Services	C38	Utilities and Services Plan
Hazards and Risk	C39	Prevention and management of spills and leaks
	C40	Bunding
	C41-42	Fire Safety Study and Emergency Plan
	C43	Management Plans required under the Mayfield Concept Plan
Schedule D: Environmental Management, Reporting and Auditing		
Environmental Management	D3-4	Construction Environmental Management Plan
Reporting and Auditing	D10	Annual Review
	D11	Independent Audit
	D15	Community Consultation Strategy

APPENDIX B: CONDITIONS OF APPROVAL

APPENDIX C: ENVIRONMENTAL PLANNING INSTRUMENTS

Section 75I(2) of the *Environmental Planning and Assessment Act 1979* requires that reference be made to the provisions of any environmental planning instrument that would (but for Part 3A of the Act) substantially govern the carrying out of the Project.

The Department's consideration of the Project in the context of the objectives and provisions of the relevant environmental planning instruments is provided below.

State Environmental Planning Policy No. 33 – Hazardous and Offensive Development

State Environmental Planning Policy 33 – Hazardous and Offensive Development (SEPP 33) facilitates the consideration and assessment of hazardous or offensive development.

Development that is considered to be 'potentially hazardous' requires a Preliminary Hazard Analysis (PHA) to be undertaken to identify and assess potential effects to both people and the environment, while there are no specific requirements on the level of assessment required for 'potentially offensive' development.

The EA demonstrates that the proposed development is not 'potentially hazardous' as it does not meet the preliminary risk screening measures developed by the Department. The proposed development is, however, identified as being 'potentially offensive' as it is a Scheduled activity under the PoEO Act and therefore requires the proponent to obtain an EPL from the EPA. The EPL is required as the proposed activity is for a cement or lime works with a capacity to handle more than 150 tonnes of cement or lime per day or 30,000 tonnes of cement or lime per year.

The EA has demonstrated that the impacts from the proposed activity can be adequately mitigated. In addition, the proposal would only be considered to be offensive industry if it were unable to obtain an EPL and the EPA have issued draft conditions for the proposed EPL. Furthermore, in accordance with Section 75V of the EP&A Act the EPL for this application cannot be refused.

The proposal is therefore not considered to be 'hazardous' or 'offensive' industry as defined by SEPP 33 and the requirements of the policy have been satisfactorily addressed.

State Environmental Planning Policy No. 44 – Koala Habitat Protection

SEPP 44 aims to conserve and protect koala habitats. It applies to all land within the Newcastle LGA that has an area in excess of 1 hectare and that contains land that is a potential koala habitat. The subject site satisfies the first two criteria, however the site contains no trees and clearing is therefore not required. In addition, there would be no off-site impacts. SEPP 44 therefore does not apply.

State Environmental Planning Policy No. 55 – Remediation of Land

State Environment Planning Policy 55 – Remediation of Land (SEPP 55) promotes the remediation of contaminated land to reduce the risk of harm to human health or other environmental systems. SEPP 55 requires a consent authority to consider whether the land is contaminated and whether it is suitable (or can be made suitable) for the proposed development.

The Mayfield land was remediated in stages under the multi-purpose terminal consent (DA 293-09-00) in accordance with a VRA under the *Contaminated Land Management Act 1997*. Remediation of Stage 1 was completed in 2008 while remediation activities associated with the Mayfield Concept Plan Approval area in Stage 2 were completed in late 2012.

The potential impact of contamination has been assessed and the Department considers that the Project site in its remediated form would be suitable for ICL's facility, and specific requirements in relation to land contamination are recommended in the conditions of consent.

State Environmental Planning Policy No. 71 – Coastal Protection

State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71) aims to ensure a consistent and strategic approach to coastal planning and management.

The Project site would be located within the coastal zone identified under SEPP 71 and consideration has therefore been given to the specific aims of the SEPP and the matters for consideration set out in clause 8 of the policy.

Due to the historic, existing and proposed industrial nature of the site and adjoining land uses a limited number of objectives are applicable. Notwithstanding the Department considered relevant matters, including the protection of the economic attributes of the coast, public access to the foreshore, scale of development and visual amenity, protection of the marine environment and water quality, historic heritage, and cumulative impacts.

The proposal is considered to meet the aims of the SEPP and the requirements contained in Clause 8.

Section 3 of the EA also includes consideration of provisions of relevant environmental planning instruments.

APPENDIX D: ENVIRONMENTAL ASSESSMENT

See the attached CD-ROM entitled *Environmental Assessment*, dated February 2013.

APPENDIX E: SUBMISSIONS AND RESPONSE TO SUBMISSIONS

See the attached CD-ROM entitled *Submissions and RTS Report*.