Notice of Modification

Section 96(2) of the *Environmental Planning & Assessment Act 1979*

I modify the development consent DA No. 246/96 referred to in Schedule 1, subject to the conditions in Schedules 2 to 4.

The Hon Kristina Keneally MP
Minister for Planning

Sydney, 6 Sept 2009

The consent is modified by:

1) Replacing Schedule 1 and Schedule 2 with the following:

SCHEDULE 1

Development consent:	DA No. 246/96, granted by the then Minister for Urban Affairs and Planning on 14 January 1997, for the expansion of an existing bulk liquid storage facility with associated loading/unloading facilities, pipelines, safety systems, landscaping and fencing at 11 Simblist Road, Port Botany.

DEFINITIONS

Applicant	Terminals Pty Ltd
BCA	Building Code of Australia
Council	Randwick City Council
Day	The period from 7 am to 6pm on Monday to Saturday, and 8am to 6pm on Sundays and Public Holidays
DECC	Department of Environment and Climate Change
Department	Department of Planning
Director-General	Director-General of the Department (or delegate)
EIS	Environmental Impact Statement and supplementary information prepared by ICI Australia Engineering Pty Limited, dated April 1996
EP&A Act	*Environmental Planning and Assessment Act 1979*
EP&A Regulation	*Environmental Planning & Assessment Regulation 2000*
EPL	Environmental Protection Licence
Evening	The period from 6pm to 10pm
Land	Land means the whole of a lot, or contiguous lots owned by the same landowner, in a current plan registered at the Land Titles Office at the date of this consent
Minister	Minister for Planning
Modification 1	Modification of the site layout including an increase in the storage capacity
Night	The period from 10pm to 7am on Monday to Saturday, and 10pm to 8am on Sundays and Public Holidays
Development	Expansion of an existing bulk liquid storage facility with associated loading/unloading facilities, pipelines, safety systems, landscaping and fencing
SEE	Statement of Environmental Effects Supporting Modification 1, named *Modification of DA 246/96 Terminals Bulk Liquid Storage Facility*, prepared by Urbis Pty Ltd for Terminals Pty Ltd (dated July 2008)
Site	Land to which the development application applies

SCHEDULE 2
ADMINISTRATIVE CONDITIONS

Obligation to Minimise Harm to the Environment

1. The Applicant shall implement all practicable measures to prevent and/or minimise any harm to the environment that may result from the construction and/or operation of the development.

Terms of Approval

2. The Applicant shall carry out the development generally in accordance with the:
   a) EIS as modified by the SEE;
   b) site plans (see Appendix A); and
   c) conditions of this approval.

   If there is any inconsistency between the above, the conditions of this approval shall prevail to the extent of any inconsistency.

3. The Applicant shall comply with any reasonable requirement/s of the Director-General arising from the Department's assessment of:
   a) any reports, plans, strategies, programs or correspondence that are submitted in accordance with this approval; and
   b) the implementation of any actions or measures contained in these reports, plans, strategies, programs or correspondence.

4. Prior to each of the events listed below, or within such period otherwise agreed by the Director-General, the Applicant shall certify in writing to the satisfaction of the Director-General, that it has complied with all conditions of this consent applicable prior to that event:
   a) commencement of any physical works associated with the development; and
   b) commencement of operations.

Limits on Approval

5. The Applicant shall not store more than 25,000m^3 of diesel, petrol and ethanol at the site at any one time.

6. Diesel, petrol and ethanol stored at the site shall be received and dispatched via the pipeline connected to the bulk liquids berth and via road tankers.

Management Plans/Monitoring Programs

7. With the approval of the Director-General, the Applicant may submit any management plan or monitoring program required by this approval on a progressive basis.

Structural Adequacy

8. The Applicant shall ensure that all new buildings and structures, and any alterations or additions to existing buildings and structures, are constructed in accordance with the relevant requirements of the Building Code of Australia.

   Notes:
   - *Under Part 4A of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for the proposed building works.*
   - *Part 8 of the EP&A Regulation sets out the requirements for the certification of the development.*

Demolition

9. The Applicant shall ensure that any demolition work is carried out in accordance with *Australian Standard AS 2601-2001: The Demolition of Structures*, or its latest version.

Operation of Plant and Equipment

10. The Applicant shall ensure that all plant and equipment used on the site is maintained and operated in an efficient manner, and in accordance with relevant Australian Standards.

SCHEDULE 3
SPECIFIC ENVIRONMENTAL CONDITIONS

HAZARDS

Pre-construction Studies

11. At least one month prior to construction (except for construction of preliminary works that are outside the scope of the hazard studies) of Modification 1, the Applicant shall submit for the approval of the Director-General, the following studies:
    a) an update of the Fire Safety Study to include proposed modifications, prepared in accordance with the Department's *Hazardous Industry Planning Advisory Paper No. 2 'Fire Safety Study Guidelines'* and the New South Wales Government's *Best Practice Guidelines for Contaminated Water Retention and Treatment Systems.* The study shall also be submitted to the NSW Fire Brigade for approval;
    b) a Hazard and Operability Study that is chaired by an independent qualified person approved by the Director-General. The study must be carried out in accordance with the Department's *Hazardous Industry Planning Advisory Paper No. 8 'HAZOP Guidelines'* and must be accompanied by a program for the implementations of all recommendations made during the study. If the Applicant intends to defer the implementation of a recommendation, justification must be included;
    c) an update of the Final Hazards Analysis (FHA) - *Stage 5 Expansion Modifications*, dated 1 June 2008, to include proposed modifications, prepared in accordance with the Department's *Hazardous Industry Planning Advisory Paper No.6 'Guidelines for Hazard Analysis'.* The FHA may be omitted if the final design does not differ significantly from that assumed in the FHA - *Stage 5 Expansion Modifications*, dated 1 June 2008; and
    d) a Construction Safety Study prepared in accordance with the Department's *Hazardous Industry Planning Advisory Paper No. 7 'Construction Safety Study Guidelines'.*

Pre-commissioning Plans and Systems

12. At least two months prior to commissioning of Modification 1, the Applicant shall prepare and submit the following pre-commissioning studies for the approval of the Director-General:
    a) a Transport of Hazardous Materials Plan, which must detail arrangements for the transport of hazardous materials including routes to be used by vehicles carrying hazardous materials. The Applicant shall, as far as practicable, enter into contractual arrangements with contract drivers to require the use of routes determined under this condition except where delivery is made direct to sites that lie off these routes in which cases these routes shall be used to the maximum extent practicable;
    b) an update of the Emergency Plan to include proposed modifications, detailing emergency procedures for the development, including detailed procedures for the safety of people outside of the development who may be at risk from the development. The Emergency Plan must be prepared accordance with the Department's *Hazardous Industry Planning Advisory Paper No. 1 'Industry Emergency Planning Guidelines'*; and
    c) an update of the Safety Management System covering all on-site operations and associated transport activities involving hazardous materials. The Safety Management System must be prepared in accordance with the Department's *Hazardous Industry Planning Advisory Paper No.9 'Safety Management'* and must specify all safety related procedures, responsibilities and policies, along with mechanisms for ensuring adherence to the procedures. Records shall be kept on-site and be available for inspection by the Director-General upon request.

SAFETY AND RISK MANAGEMENT

13. Prior to the commencement of construction of Modification 1, the Applicant shall obtain an approval from Sydney Airport for erecting of any temporary construction structures/equipment higher than 25.2 metres above Australian Height Datum and provide a copy of the approval to the Director-General.

Chemical Storage

14. All chemicals shall be stored in:
    a) appropriately bunded areas, with impervious flooring and sufficient capacity to contain 110% of the largest container stored within the bund. The bund(s) shall be designed in accordance with:
        i. the requirements of all relevant Australian Standards; and
        ii. the DECC's *Storing and Handling Liquids: Environmental Protection – Participants Manual*; and
    b) in accordance with Australian Standard *AS1940-2004 The storage and handling of flammable and combustible liquids.*

TRANSPORT

Road Network and Parking

15. During the life of the development, the Applicant shall ensure that vehicles associated with the development use the following routes, subject to condition 16: Bumborah Point Road, Foreshore Road, General Holmes Drive and Joyce Drive/Qantas Drive.

16. The use of Botany Road west of its intersection with Foreshore Road for the transport of hazardous goods is prohibited other than for deliveries to the Botany and Banksmeadow area.

17. The Applicant shall ensure that all parking generated by the development is accommodated on site. No vehicles associated with the development shall park on the public road system at any stage.

18. During the life of the development, the Applicant shall provide on-site parking for all vehicles associated with the development in accordance with the requirements of the Sydney Ports Corporation and Randwick City Council.

Vehicle Queuing

19. During the life of the development, the Applicant shall ensure that development does not result in any vehicles queuing on the public road network. Tankers shall be queued in such a manner as to ensure that there is free access around the site for fire vehicle appliances for emergency purposes. All tankers being unloaded or loaded shall not remain on site for undue extended periods.

Traffic Management Plan

20. The Applicant shall prepare and implement a Traffic Management Plan for the development, in consultation with Council and Sydney Ports Corporation. The Plan must be submitted to the Director-General prior to the commencement of construction of Modification 1 and must:
    a) describe the traffic volumes and movements to occur during construction and operation;
    b) detail the proposed measures to minimise the impact of construction and operation traffic on the surrounding network, including route selection, driver behaviour and vehicle maintenance; and
    c) detail the procedures to be implemented in the event of a complaint from the public regarding construction and operation traffic.

AIR

Dust

21. The Applicant shall carry out all reasonable and feasible measures to minimise dust generated by the development.

22. During construction, the Applicant shall ensure that:
    a) all trucks entering or leaving the site with loads have their loads covered;
    b) trucks associated with the development do not track dirt onto the public road network; and
    c) the public roads used by these trucks are kept clean.

Odour

23. The Applicant shall not cause or permit the emission of offensive odours from the site, as defined under Section 129 of the *Protection of the Environment Operations Act 1997.*

    Note: Section 129 of the Protection of the Environment Operations Act, 1997 provides that the licensee must not cause or permit the emission of any offensive odour from the premises but provides a defence if the emission is identified in the relevant environment protection licence as a potentially offensive odour and the odour was emitted in accordance with the conditions of a licence at minimising odour.

Air Emission Limits

24. The Applicant shall ensure that the emissions from discharge points serving the facility do not exceed the emission limits outlined in the EPL for the development.

Air Quality Monitoring

25. The Applicant shall undertake air quality monitoring outlined in the EPL for the development.

SOIL AND WATER

Discharge Limits

26. Except as may be expressly provided in an EPL for the development, the Applicant shall comply with Section 120 of the *Protection of the Environment Operations Act 1997.*

Monitoring

27. The Applicant shall undertake groundwater monitoring outlined in the EPL for the development.

Erosion and Sediment Control

28. During construction, the Applicant shall carry out all reasonable and feasible measures to minimise soil erosion and the discharge of sediment from the site to Botany Bay. All measures are to be implemented in accordance with the Department of Housing and Landcom's *Managing Urban Stormwater: Soils and Construction*.

NOISE

Operating Hours

29. The Applicant shall comply with the restrictions in Table 1, unless otherwise agreed by the Director-General.

Table 1: Construction and Operation Hours for the Development

Activity	Day	Time
Construction	Monday – Friday	7:00am to 6:00pm
	Saturday	8:00am to 1:00pm
	Sunday and Public Holidays	Nil
Operation	All days	Any time

Note: Construction activities may be conducted outside the hours in Table 1 provided that the activities are not audible at any residence beyond the boundary of the site.

Operating Conditions

30. The Applicant shall ensure trucks associated with the development are operated at low speed or power and are switched off when not being used. Vehicles are not to be left idling for prolonged periods.

31. The Applicant shall implement a training and awareness program prior to the commencement of operation of Modification 1 incorporating a driver code of conduct for vehicles travelling to, from and within the site during operation. The training program shall cover speed limits within the site, restrictions on vehicle idling and queuing on local roads.

VISUAL

Lighting

32. The Applicant shall ensure that the lighting associated with the development:
   a) complies with the latest version of Australian Standard *AS 4282(INT) - Control of Obtrusive Effects of Outdoor Lighting*; and
   b) is mounted, screened and directed in such a manner that it does not create a nuisance to surrounding properties or the public road network.

Landscape Management

33. The Applicant shall landscape the site within three months from the commencement of operations of the development to the satisfaction of Council.

WASTE

34. During the development, the Applicant shall implement reasonable and feasible measures to minimise the waste generated by the development.

35. The Applicant shall ensure that all waste generated on the site during construction and operation is classified in accordance with the DECC's *Waste Classification Guidelines: Part 1 Classifying Waste* and disposed of to a facility that may lawfully accept the waste.

ENERGY AND WATER EFFICIENCY

36. The Applicant shall ensure the development is energy and water efficient, in accordance with industry best practice, to the satisfaction of the Director-General.

SCHEDULE 4
ENVIRONMENTAL MANAGEMENT AND MONITORING

ENVIRONMENTAL MANAGEMENT STRATEGY

37. The Applicant shall prepare and implement an Environmental Management Strategy for the development to the satisfaction of the Director-General. This strategy must:
    a) be approved by the Director-General prior to the commencement of operation of Modification 1;
    b) provide the strategic context for environmental management of the development;
    c) identify the statutory requirements that apply to the development;
    d) describe in general how the environmental performance of the development would be monitored and managed;
    e) describe the procedures that would be implemented to:
        i. keep the local community and relevant agencies informed about the operation and environmental performance of the development;
        ii. receive, handle, respond to, and record complaints;
        iii. resolve any disputes that may arise during the course of the development;
        iv. respond to any non-compliance;
        v. manage cumulative impacts; and
        vi. respond to emergencies; and
    f) describe the role, responsibility, authority, and accountability of all the key personnel involved in environmental management of the development.

INCIDENT REPORTING

38. Within 24 hours of any:
    a) incident or potential incident with actual or potentially significant off-site impacts on people or the biophysical environment; or
    b) exceedance of the limits/performance criteria in this approval;

    the Applicant shall notify Council, the Department and other relevant agencies and an Incident Report shall be supplied to Council and the Department outlining the basic facts.

39. Within 6 days of notifying Council and the Department and other relevant agencies of an incident, potential incident or exceedance, and following investigations of the causes and identification of necessary additional preventive measures, the Applicant shall provide Council and the Department and these agencies with a written report that:
    a) describe the date, time, and nature of the incident/exceedance;
    b) identify the cause (or likely cause) of the incident/exceedance;
    c) describe what action has been taken to date; and
    d) describe the proposed measures to address the incident/exceedance.

40. The Applicant shall maintain a register of accidents, incidents, potential incidents and exceedances. The register shall be made available for inspection at any time by the independent Auditor and the Director-General.

INDEPENDENT ENVIRONMENTAL AUDIT

41. Within 12 months of the commencement of operation of the Modification 1, and then as directed by the Director-General, the Applicant shall commission and pay the full cost of an Independent Environmental Audit of the development. This audit must:
    a) be conducted by a suitably qualified, experienced, and independent team of experts whose appointment has been endorsed by the Director-General;
    b) include a Hazard Audit in accordance with the Department's *Hazardous Industry Planning Advisory Paper No. 5 – Hazard Audit Guidelines*. The audit shall include a review of the Safety Management System and of all incidents recorded and be accompanied by a program for the implementation of all recommendations made in the audit report. If the Applicant intends to defer the implementation of a recommendation, justification must be included;
    c) assess the environmental performance of the development, and its effects on the surrounding environment and sensitive receivers;
    d) assess whether the development is complying with the conditions, relevant standards, performance measures, and statutory requirements;
    e) review the adequacy of any strategy/plan/program required under this approval; and, if necessary,
    f) recommend measures or actions to improve the environmental performance of the development, and/or any strategy/plan/program required under this approval.

42. Within 6 weeks of completing this audit, or as otherwise agreed by the Director-General, the Applicant shall submit a copy of the audit report to the Director-General with a response to any recommendations contained in the audit report.

43. Within 3 months of submitting an audit report to the Director-General, the Applicant shall review and if necessary revise the strategy/plans/programs required under this approval to the satisfaction of the Director-General.

APPENDIX A

SITE PLANS

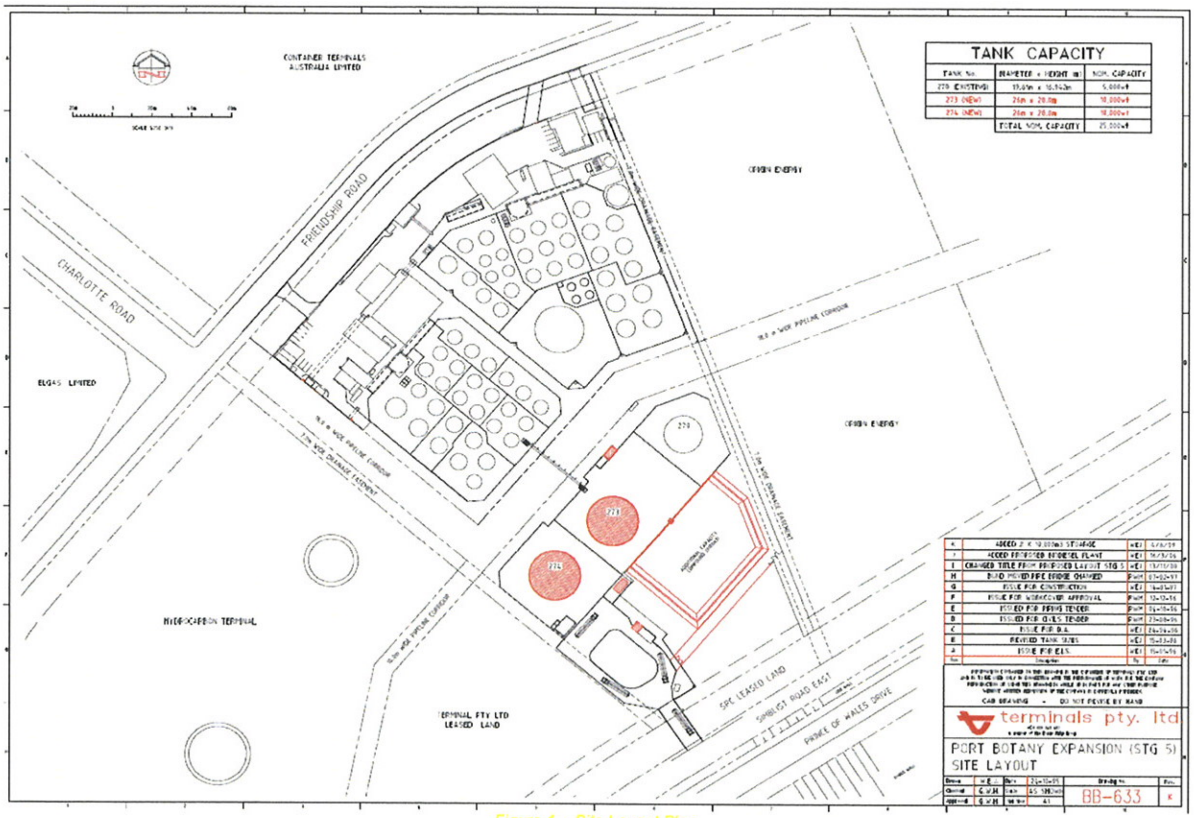

Figure 1 – Site Layout Plan

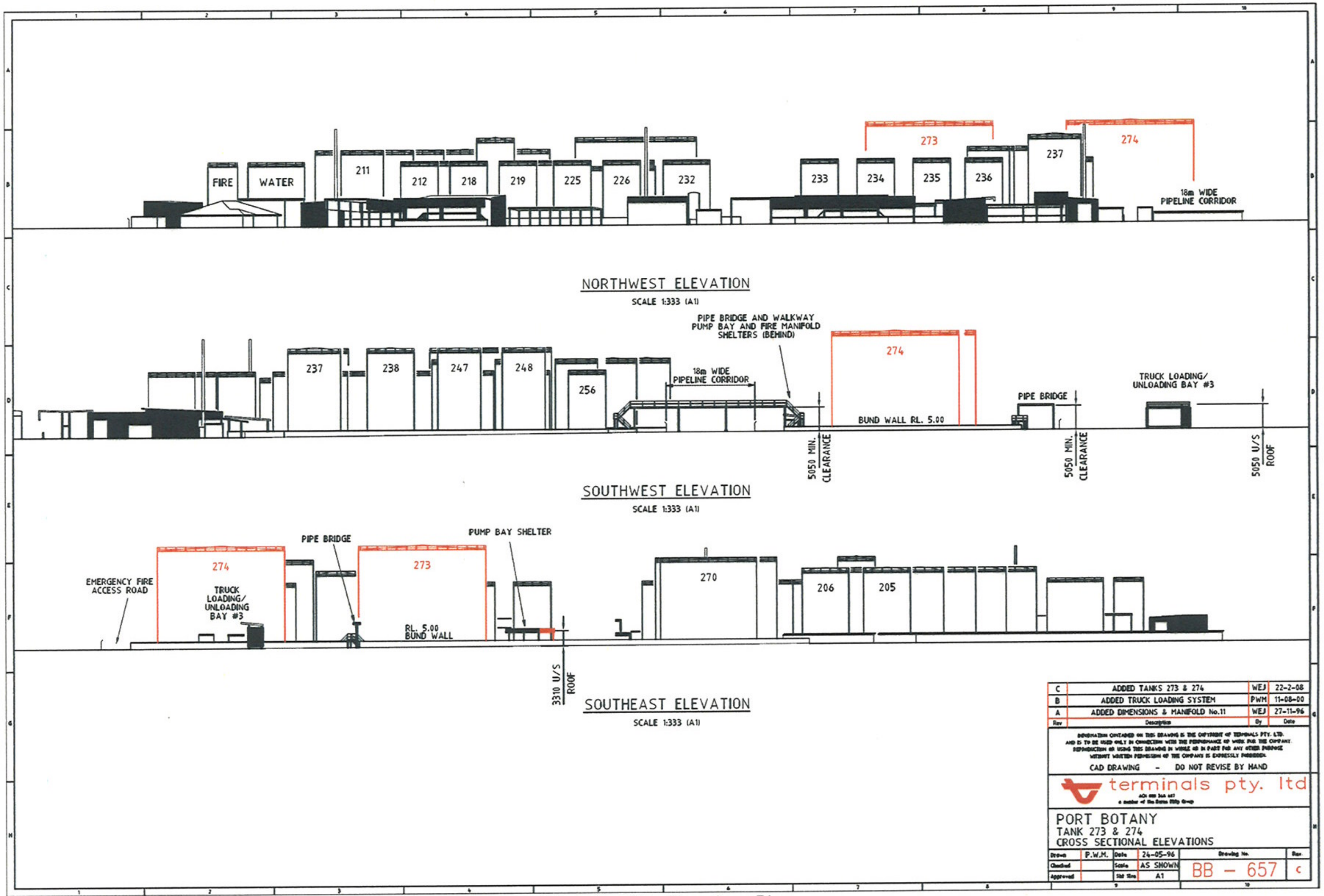

Figure 2 – Site Elevations Plan