



nswPorts

Response to Submission Report (DA494-11-2003-I- Mod-18

Modification 18 to DA-494-11-2003i

NSW Ports | March 2026



Contents

1.	Introduction	2
2.	Overview of submissions received	3
2.1.	Summary of key issues raised and level of support, objection or comment	3
2.1.1.	Sydney Water	3
2.1.2.	Port Authority of NSW	3
2.1.3.	Transport for NSW (TfNSW).....	3
2.1.4.	Department of Climate Change, Energy, the Environment and Water (DCCEEW).....	3
2.1.5.	Bayside Council	4
2.1.6.	Randwick Council	4
2.2.	Actions taken since exhibition	4
	Additional stakeholder engagement	4
3.	Analysis of Submissions	5
3.1.	Biodiversity / Condition B2.30 & B2.31	5
3.2.	Coastal Monitoring / Condition B2.40.....	5
3.3.	Dredging and Reclamation / Conditions B2.8-B2.12.....	5
3.4.	Type of Modification Application and Consultation	6
3.5.	Community Consultation Committee / Conditions B3.2 and B3.3	6
3.6.	Confirmation of works	7
3.7.	Port Botany Quayline Equalisation Project (PBQEP).....	7
3.8.	Requests for Additional Administrative Changes	7
4.	Summary and conclusion.....	8

This report has been prepared by:



Jordan Howard
Planning Officer



Anja Morgan
Planning Manager

This report has been reviewed by:



Greg Walls
General Manager Corporate Affairs and Planning

1. Introduction

This document has been prepared in response to a Request for Additional Information (RFI) regarding proposed Modification 18 of the Port Botany Expansion (DA494-11-2003-I-Mod-18) development consent. The modification application seeks to update references to legislation, streamline operational conditions for improved efficiency, remove redundant conditions and amend the frequency and scope of compliance-based conditions.

The purpose of this Response to Submissions Report is to provide a summary of issues raised during the consultation process and outline responses to each matter. Submissions were received from a range of stakeholders, including public authorities and local councils, and covered topics such as biodiversity management, coastal monitoring, community engagement, and administrative updates. This report categorises and responds to these issues, as requested by the Department of Planning, Housing and Environment (DPHI) in its RFI letters, dated 27 November 2025 and 1 December 2025.

2. Overview of submissions received

The modification report was not publicly exhibited however was made publicly available online and sent to relevant agencies for review and feedback. The Department received a total of six submissions. The submissions were from the following agencies:

- Sydney Water
- Port Authority of NSW
- Transport for NSW (TfNSW)
- Department of Climate Change, Energy, the Environment and Water (DCCEEW)
- Bayside Council (x2)
- Randwick Council

2.1. Summary of key issues raised and level of support, objection or comment

2.1.1. Sydney Water

Summary of key issues

Sydney Water raises no objection to the proposed modification and provides that future works will require consultation with Sydney Water and may require a new Section 73 Compliance Certificate. Additionally, no objection was raised to deletion of *Section B2.40A – Foreshore Beach Erosion*.

Level of support, objection or comment

Submission supports removal of condition *B2.40A – Foreshore Beach Erosion*.

2.1.2. Port Authority of NSW

Summary of key issues

The Port Authority of NSW is supportive of the modification and notes that it has been part of ongoing discussions with NSW Ports regarding this modification, and all amendments have been previously agreed.

Level of support, objection or comment

Submission supports the application.

2.1.3. Transport for NSW (TfNSW)

Summary of key issues

TfNSW requests that some references throughout the conditions of consent are updated to reflect correct naming of departments.

Level of support, objection or comment

Submission supports the application. Further comments are raised requesting additional administrative changes.

2.1.4. Department of Climate Change, Energy, the Environment and Water (DCCEEW)

Summary of key issues

The Conservation Programs, Heritage and Regulation (CPHR) of the NSW DCCEEW raised the following issues:

- Request for further planning pathway advice for capital operational dredging under conditions B2.8-B2.12.
- Request for further information pertaining to B2.30 and the predicted water quality outcomes.
- Review of condition B.32 prior to removal of conditions B2.31 for Penrhyh Estuary Habitat Enhancement Plan (PEHEP).
- Acceptance of removal of conditions B2.40 and B2.40A.

Level of support, objection or comment

Submission generally supports the application and removal of conditions B2.40 and B2.40A. However, further information is required prior to deletion of conditions relating to Penrhyh Estuary Habitat Enhancement Plan as outlined above.

2.1.5. Bayside Council

Summary of key issues

Bayside Council has requested the confirmation of works completed.

Supplementary submissions also requested further consideration pertaining to 'any monitoring of the wave and wind climate' conditions which are proposed to be deleted.

Level of support, objection or comment

Bayside provided commentary pertaining to the proposed modification and requested further consideration to impacts of B2.40.

2.1.6. Randwick Council

Summary of key issues

Randwick Council raises the following key issues:

- Appropriateness of planning pathway
- Need for exhibition
- Previous consultation with stakeholders (particularly Hutchison Ports)
- Environmental impacts of Port Botany Quayline Equalisation Project (PBQEP)
- Changes to Community Consultation Committee

Additionally, the Council commented on the following conditions:

- Conditions B2.30 and B2.31 are to be retained.
- Condition B2.40 is to be retained, as Council notes that a continuity of coastal monitoring "*is critical for cumulative impact assessment and adaptive management*" of Botany Bay and to ensure proactive monitoring is undertaken.
- Conditions B3.2 and B3.3 should be retained, as Council notes that "*reducing [the scope of the CCC] and representation would depart from established practice and contradict the Department of Planning and Environment DPE CCC Guidelines*".

Finally, the Council has added that these retention of monitoring and biodiversity obligations is necessary as the NSW Ports is also seeking approval for a separate project, known as the Port Botany Quayline Equalisation Project (PBQEP).

Level of support, objection or comment

The Council notes objection to deletion of some conditions.

2.2. Actions taken since exhibition

Additional stakeholder engagement

Further correspondence was sent to both Randwick Council and Hutchison Ports (sublease & terminal operator) to discuss the proposal. Randwick Council did not respond to request for further discussions (emails sent 3/12/2025 and 11/12/2025). Hutchison Ports was contacted to further clarify that consultation with them occurred both during the initial drafting of the modification in 2023 as well as throughout 2025. Hutchison Ports did not raise any further issues than the ones prescribed in this Response to Submissions.

At the Port Botany Community Consultative Committee of 10 February 2026 there was further discussion with Randwick Council in regard to Condition of Approval B3.2 and C3.2 pertaining to the Community Consultative Committees. Section 3.5 summarises the discussion and agreement.

3. Analysis of Submissions

The submissions were reviewed and categorised based on key issues raised and corresponding conditions of consent.

3.1. Biodiversity / Condition B2.30 & B2.31

Issue

Submissions raised concerns regarding the proposed deletion of biodiversity-related conditions, specifically Conditions B2.30 and B2.31. Submission expressed that these conditions should be retained in perpetuity to ensure ongoing biodiversity protection and monitoring within Botany Bay. Furthermore, submissions requested further information to demonstrate that water quality outcomes in Penrhyn Estuary have been achieved under Condition B2.30. A submission also recommended that deletion of Condition B2.31 should not proceed until discussions with the CPHR Group of the NSW DCCEEW regarding Condition B2.32 are resolved.

Raised By

- Randwick Council
- DCCEEW

Response

Justification for the removal of these conditions is provided within *Appendix 2 – Modification Table* of the submitted application. These conditions are related to the construction phase (B2 Construction Environmental Performance), not to the operations phase. All works approved under DA494-11-2003-i have completed and these conditions were complied with.

Regarding condition B2.30, it is highlighted that the condition does not relate to on-going water quality monitoring, but was related to demonstrating, at a pre-construction phase, that “detailed terminal design will achieve predicted water quality outcomes in Penrhyn Estuary”. This condition was covered by the Penrhyn Estuary Habitat Enhancement Plan, including Appendix K – flushing protocol which was approved in March 2007, under which monitoring and activities have now been completed. Therefore, the condition has been satisfied, as the terminal was design and construction in compliance with the condition.

Regarding condition B2.31, this condition can be treated separately from condition B2.32 (which is not proposed to be modified).

3.2. Coastal Monitoring / Condition B2.40

Issue

Submissions raised concerns regarding the proposed deletion of Condition B2.40, which related to monitoring of hydrodynamics and coastal processes. Submissions raised instances of costal erosion at surrounding beaches since the port expansion.

Raised By

- Bayside Council
- Randwick Council

Response

Justification for the removal of this condition is provided within *Appendix 2 – Modification Table* of the submitted application. This condition is related to the construction phase (B2 Construction Environmental Performance), not to the operational phase. All works approved under DA494-11-2003-i have completed and this condition was complied with.

It is noted that both Sydney Water and the DCCEEW raised no objection in their submissions to the proposed deletion of this coastal monitoring related condition.

3.3. Dredging and Reclamation / Conditions B2.8-B2.12

Issue

A submission requested further information on the planning approval pathway and regulatory requirements for future capital dredging and reclamation works, in response to the request to delete conditions related to dredging and reclamation works.

Raised By

- DCCEEW

Response

All capital dredging and reclamation works associated with the approval have been completed. Therefore, these conditions are redundant.

Regarding the request for further information on the planning pathway and regulatory requirements for further capital dredging and reclamation works, the submitted *Appendix 2 – Modification Table* notes that “any future capital or maintenance dredging will be subject to State Environmental Planning Policy (Transport and Infrastructure) 2021”. Any future proposed development would be subject to environmental planning instruments and legalisation in force.

3.4. Type of Modification Application and Consultation

Issue

Submissions expressed that the applications should have been submitted as Section 4.55(2) modification application due to extent of modifications. A Section 4.55(2) application would also likely require exhibition and further consultation with key stakeholders such as Hutchison Ports.

Raised By

- Randwick Council

Response

The *Modification Report* (prepared by Keylan Consulting, dated October 2025) outlines the provisions of Section 4.55(1A) and assesses the proposal against these requirements. The modification is administrative in nature which seeks to update the instrument of approval by streamlining the conditions of consent and removing conditions that have already been completed. Importantly, the modification does not alter the scope of the approved development and does not result in any new or additional environmental impacts beyond those previously assessed under DA494-11-2003-i. Therefore, the application satisfied the requirements of Section 4.55(1A). NSW Ports has engaged with the DPHI through the preparation of this modification application and prior submission.

Regarding comments on engagement, including with Hutchison Ports, Section 5 of the Modification Report outlines consultation taken with relevant stakeholders. This included Hutchison Ports, both in 2023 during an early stage of the project and again in 2025 given extent of time that passed. Feedback was integrated into the proposed modification. NSW Ports does not believe that there has been any gap in engagements. Further correspondence was sent to Hutchison Ports to confirm this after submissions were received. NSW Ports have requested the meeting with Randwick Council however have not received further correspondence.

3.5. Community Consultation Committee / Conditions B3.2 and B3.3

Issue

Submissions raised concerns regarding proposed changes to the Community Consultation Committee (CCC) structure, membership, and function under Conditions B3.2 and B3.3.

Raised By

- Randwick Council

Response

Justification for the removal of this condition is provided within *Appendix 2 – Modification Table* of the submitted application. Amendments to conditions B3.2 and B3.3 will not result in significant changes to the structure and function of the CCC. Proposed amendments are minor in nature and will make the conditions consistent with the DPHI's current CCC Guideline for State significant projects (June 2023). The CCC will continue to operate as is and provide a forum for stakeholders and community engagement.

At the Port Botany Community Consultative Committee (PBCCC) of 10 February 2026 there was further discussion with Randwick Council in regard to Condition of Approval B3.2 and C3.2 pertaining to the Community Consultative Committees. It was confirmed by the independent Chair of the PBCCC that the changes align the Conditions to the Guidelines. It was agreed that Randwick Council should be added to the list of stakeholders that should form the membership of the PBCCC within the Condition.

3.6. Confirmation of works

Issue

Bayside Council requested that the DPHI verify completion and certification of works on site to ensure that conditions can be removed.

Raised By

- Bayside Council

Response

Appendix 2 – Modification Table of the submitted application provides an overview of the existing conditions of approval, proposed modifications and justification for each. Where relevant, justifications include explanation of how each condition has been complied. Sufficient evidence is provided to justify the removal and modification of conditions.

3.7. Port Botany Quayline Equalisation Project (PBQEP)

Issue

Submissions noted that PBQEP is a separate project being pursued concurrently, which may have cumulative environmental impacts.

Raised By

- Randwick Council

Response

Due to the administrative nature of this application for works already completed and complied with, NSW Ports do not deem this application adds to any cumulative environmental impacts.

3.8. Requests for Additional Administrative Changes

Issue

A submission from TfNSW requested consideration be given to an additional administrative change, that being the replacement of any references to Roads and Maritime Services/RMS instead reference Transport for NSW or TfNSW, as the RMS was dissolved under the *Transport Administration Amendment (RMS Dissolution) Act 2019*.

Raised By

- TfNSW

Response

NSW Ports has no issue with this requested administrative change and leaves the request for the consideration of the DPHI.

4. Summary and conclusion

The six submissions received provide a range of comments, including support for the application. Where clarification was sought, this report provides clarity, showing that no outstanding obligations remain. As the modification does not alter the approved development or introduce any new environmental impacts, it satisfies the requirements of Section 4.55(1A) of the EP&A Act and is suitable for approval.