

Daniel Gorgioski

Senior Planner – Transport and Water Assessments
Department of Planning, Housing and Infrastructure
4 Parramatta Square
12 Darcy Street
Parramatta NSW 2150

3 March 2026

Dear Mr Gorgioski,

Subject: Response to Request for Additional Information (Modification 18 of the Port Botany Expansion (DA494-11-2003-i-Mod-18))

This letter provides a response to the Request for Additional information issued by the Department of Planning, Housing and Infrastructure on 27 November 2025. Modification 18 of the Port Botany Expansion (DA494-11-2003-i-Mod-18) 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.

This letter clarifies the status of all relevant conditions and provides further rationale for the proposed modification.

Should you have any further questions, please do not hesitate to contact me via email at anja.morgan@nswports.com.au.

Yours sincerely,



Anja Morgan
Planning Manager

Response to Questions in Attachment 1 of the RFI Letter

Introduction

The Request for Additional Information letter requested additional information pertaining to the following matters:

1. The modification request must provide additional information on conditions proposed to be deleted and/or modified, including:
 - a. date of approval/completion of the relevant condition(s)
 - b. interaction with remaining related conditions
 - c. monitoring outcomes, where relevant
 - d. how future development / certain activities will be managed, such as through alternative planning pathways
2. Clarify the future intent of undeveloped land and infrastructure that has yet to be delivered under the consent
3. It's the Departments preference that any proposed amendments to conditions be consistent with current approaches and guidance material e.g. requirements for community consultative committees and Environmental Management Reporting / Auditing
4. Response to advice provided by public authorities and Bayside Council

1. Additional information on conditions proposed to be deleted and/or modified

The Response to Submission prepared by NSW Ports provides further information relating to proposed deleted and modified conditions. As noted, all construction works proposed as Part of Stage 1 have been completed. Any further uses/development on site is subject to exempt and complying development provisions of the State Environmental Planning Policy (Transport and Infrastructure) 2021 (T&I SEPP). Items a) to d) are addressed as required in specific responses below.

2. Undeveloped land and infrastructure

Questions / Comments

The request to remove / delete certain conditions may have unintended effects to the future development of land that is vacant / undeveloped or infrastructure that has yet to be constructed (i.e. rail access by means of an extension of the existing Botany Freight Rail Line parallel to Foreshore Road including a rail bridge and culverts).

Please provide clarification:

1. *of the intended future use of any undeveloped land and how this will be managed*
2. *the status of the approved Rail Line parallel to Foreshore Road, including a rail bridge and culverts, as shown in schedule 3 of the consent i.e. will this rail infrastructure be constructed in the future, and likely construction timeframe.*

Response

All works approved in Stage 1 under DA494-11-2003-i have been completed. NSW Ports does not view the noted land as 'vacant' but as part of the consent and tenancy by Hutchison Ports. The land is subject to the T&I SEPP and any activities or uses on the whole site will require compliance with exempt or complying provisions under the T&I SEPP.

Regarding the Rail Line parallel to Foreshore Road and associated infrastructure depicted in Schedule 3 of the Consolidated Consent (see Figure 1), as well as described in Condition A2.1, it is noted that this depiction / description of the approved development is outdated. Schedule 3 and Condition A2.1 were included in the original approval (issued 13 October 2005), which approved a rail layout that can be seen in Figure 2. However, the application has subsequently been modified, which has resulted in a number of changes to the approved development.

Modification 7, approved on 20 March 2009, modified the approved rail configuration to allow the then Sydney Ports Corporation to pursue either the originally approved rail configuration or an Alternate Rail Configuration along the Inter-Terminal Road Access Corridor (Figure 3). The Alternative Rail Configuration was ultimately pursued and subsequently completed. As such, there is no intention or ability to construct the originally approved rail siding parallel to Foreshore Road, as this element is effectively no longer included in the approved design.



Figure 1 Schedule 3 of the Consolidated Consent, depicting the Approved Stage 1 Port Footprint

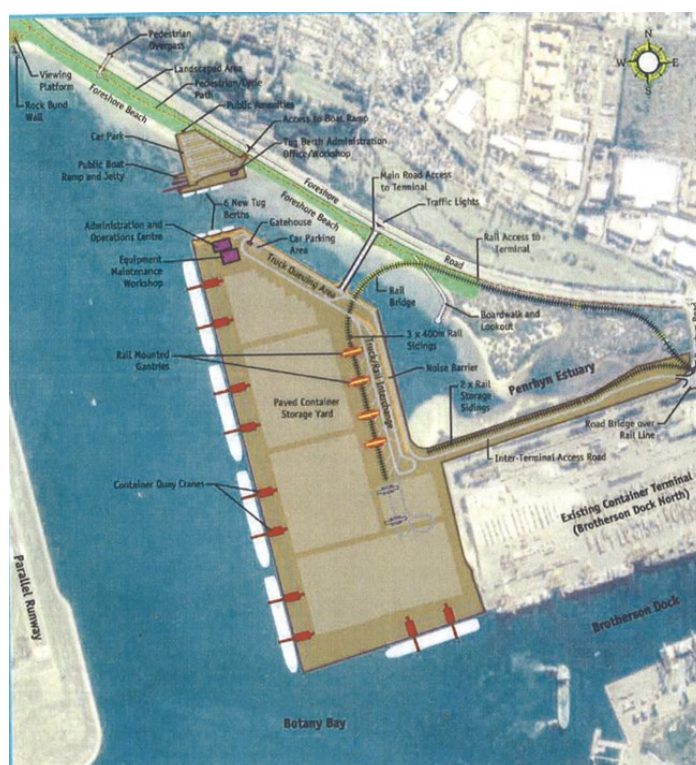


Figure 2 Originally approved development under EIS for PBE by URS (2003)

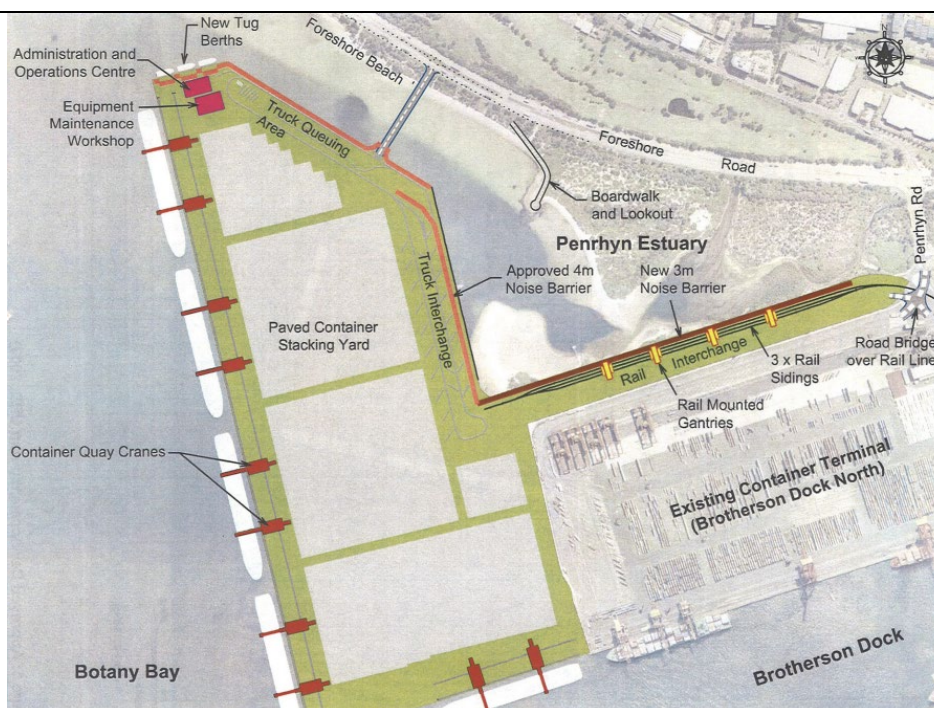


Figure 3 Alternate Rail Configuration (Port Botany Expansion Rail Operations
Section 96(1) Modification Application, February 2009)

A2.4 (Port Freight Logistics Plan)

Questions / Comments

The Port Freight Logistics Plan requires consideration of rail movement of container freight, and in condition A2.4 (a) examining container freight logistics and areas for improvement in the efficiency of container movements and rail interfacing through operational, technological or administrative changes, and in A2.4 (b) to maximise the use of rail infrastructure.

Clarification is required:

1. as to whether the Port Freights Logistics Plan (PFLP) (approved prior to the commencement of construction) was developed on the basis of the approved Stage 1 identified in condition A2.1 (a), specifically did the PFLP include the operation of the rail access described in dot point 4 of condition A2.1 (a) i.e. new rail line parallel to Foreshore Road)?
2. whether the PFLP was developed on the basis of the full operation of the Sydney International Container Terminals lease area or only the areas of the lease area that are currently operational (not including the undeveloped land in the lease area).
3. whether the deletion of condition A2.4 does not cause any unintended effect of the current container terminal operations and /or the full operation of the lease area for the approved development.

Response

As noted above, the rail line parallel to Foreshore Road was effectively removed / made redundant by Modification 7 (approved on 20 March 2009) and the subsequent construction of the Alternate Rail Configuration (see Figure 3). As such, there is no intention or ability to construct the originally approved rail siding parallel to Foreshore Road. The PFLP was drafted in November 2007 and formed justification for the modification of the rail configuration in Modification 7. The PFLP identified several initiatives that were necessary to improve the efficiency and reliability of rail access and operations at Port Botany. This included providing stevedore sidings to accommodate 600m train lengths.

Furthermore, Condition B2.17 required rail siding capacity at the new terminal to be provided in accordance with what was to be identified in the PFLP. To ensure compliance with recommendations of the PFLP, and conditions A2.4 and B2.17, the Alternate Rail Configuration of Modification 7 was necessary so that both operators would have 600m of operational rail sidings.

The removal of this condition will not have any unintended effect of the current container terminal operations and /or the full operation of the lease area for the approved development. The condition was a requirement within the pre-construction phase and was completed.

B2.27 - Port Traffic and Rail Noise Management Plan

Questions / Comments

It is noted this condition is proposed to be delete, however:

1. *further justification is required, as this condition may still be applicable for any undeveloped land and the future provision of a rail link via Foreshore Road.*
2. *how will port traffic and noise be managed should this condition be deleted?*

Response

As noted above, the rail line parallel to Foreshore Road was effectively removed / made redundant by Modification 7 (approved on 20 March 2009) and the subsequent decision to pursue the Alternate Rail Configuration (see Figure 3). As such, there is no intention or ability to construct the originally approved rail siding parallel to Foreshore Road. Therefore, there is no uncompleted rail work approved under this consent that this condition may be applicable to.

There are several other mechanisms for addressing potential noise from traffic and rail operations associated with what is now the operational PBE, including NSW Ports' Port Botany Overarching Environmental Management Plan (EMP), the stevedores' Operational Environmental Management Plans (OEMPs), Port Botany Landside Improvement Strategy (PBLIS), defined Heavy Vehicle Routes and EPA License.

NSW Ports' Port Botany Overarching EMP details a procedure for logging and monitoring all community complaints, including noise complaints. All complaints received are logged in the NSW Ports' electronic Protecht Complaints Register and responded to within 2 business days. In 2020, the NSW Ports complaints receival process was upgraded to achieve 24/7 coverage by providing an option for after-hours calls, as well as providing online complaints form on the NSW Ports website, whereby the community can directly log complaints into the Protecht Complaints Register.

A summary of complaints received for the previous quarter is provided at the quarterly Port Botany Community Consultative Committee (CCC) meetings, the Minutes of which are provided to the Department and published on the NSW Ports website.

NSW Ports also operates and maintains real-time noise monitoring network of five noise monitors at Port Botany, which has been in operation since 2018.

B2.30 and B2.31 - Penrhyn Estuary Habitat

Questions / Comments

It's acknowledged that conditions B2.30 and B2.31 are requested to be deleted as they have been completed. However, Conservation Programs, Heritage and Regulation (CPHR) Group of the NSW Department of Climate Change, Energy, the Environment and Water have recommended that these two conditions are not deleted pending further information on the following:

1. *B2.30: demonstrate that the predicted water quality outcomes in Penrhyn Estuary have been achieved*
2. *B2.31: CPHR are in discussions with NSW Ports about the satisfaction of Success Criterion 1 - Shorebird Usage under the Penrhyn Estuary Habitat Enhancement Plan. The Department requires an update on the outcomes of discussions and timeframe for its resolution.*

Response

Refer to the *Response to Submissions Report* for a full response to the submission from the CPHR Group of the NSW Department of Climate Change, Energy, the Environment and Water.

1. 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 (PEHEP), 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.

The PEHEP and all reports, including the water quality reports and 'Port Botany – End of Project Report' are available on the Port Authority of NSW website at: <https://www.portauthoritiesnsw.com.au/sustainability-and-heritage/environment/penrhyn-estuary-rehabilitation>.

2. Regarding condition B2.31, CPHR has not been in discussion with NSW Ports about the satisfaction of PEHEP Success Criteria 1 – Shorebird Usage. NSW Ports understands the discussions have been with the Port Authority of NSW (PA NSW), who has the responsibility of the PEHEP, and discussions are ongoing.

B2.37 - Visual Amenity Plan

Questions / Comments

Although this plan is sought to be delete, no advice has been provided on how the undeveloped land in the lease area will be managed and/or landscaped.

Response

A Visual Amenity Management Plan (dated March 2005) was a requirement of the pre-construction phase and was completed.

Currently, vegetation at Port Botany, including across sites that were created by the PBE, is managed via pathways provided to NSW Ports under the T&I SEPP, which allows 'vegetation works' to be carried out 'without development consent' on land within the SP1 zone and within the Lease Area. Additionally, NSW Ports completed a Review of Environmental Factors for Vegetation Management Works (dated August 2020), which was approved under Part 5 of the EP&A Act on 9 September 2020, allowing vegetation works to be carried out.

NSW Ports does not consider the land as 'undeveloped'. Any works/uses on the whole land is subject to provisions of the T&I SEPP.

B3.2, B3.3, C3. 2 and C3.3 Community consultative committee (CCC)

Questions / Comments

It is acknowledged that the project's CCC has been in operation before the Department's current Community consultative committee (CCC) guideline (2023) was published, and the broad condition requirements generally align with the intent of the CCC guideline. However, the Department requires clarification as to the current needs that require changes to be made to the operation of the CCC, as no specific information has been provided, and justification for the proposed modifications to the CCC conditions.

Response

NSW Ports is proposing these minor changes to the conditions governing the operation of the CCC for the following reasons:

- To make the conditions consistent with the DPPI's CCC Guideline for State Significant projects, which were not in operation when these conditions were drafted
- Reduce the minimum required number of representatives required to present from the Applicant, given that construction has been completed and the site is operational
- NSW Ports will continue to be present at all meetings
- Update references to the names of representative bodies (e.g. Botany Bay Council has been superseded by Bayside Council)
- Specifically allow for online meetings
- 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

These changes will not have any significant effect on the operation of the CCC, which will continue to be available for public discussion.

B4.3 Environmental Representative

Questions / Comments

Please clarify whether condition B4.3 is sought to be retained or deleted as it is unclear in the modification request. The Department's preference is to retain if future construction activities under the consent will occur.

Response

There is an error in *Appendix 2 - Modification Table*, where the action listed for Condition B4.3 is to 'Retain'. This should be 'Delete' and the corresponding text in the Proposed Modification column should be red and strikethrough to indicate that the intention is for this condition to be deleted. The condition was a requirement within the pre-construction phase and was completed. Construction activities under this consent are now completed.

B4.6 Maintenance and Management Plan for Expanded Area

Questions / Comments

It is acknowledged that that lease holders may have measures in place to address the requirements of this condition should it be deleted.

1. *Please clarify whether any of the lease holders currently manage the undeveloped land in relation to safety, vegetation management and feral pest management.*
2. *If the lease does not cover the undeveloped land please advise whether this plan is relevant for that land, or whether the undeveloped land will be managed and maintained under an alternate process.*

Response

All works approved under DA494-11-2003-i have been completed. Future development of areas of vacant land within the footprint of land created by the PBE will utilise other development pathways.

As noted above, vegetation at Port Botany, including across sites that were created by the PBE, is managed via pathways provided to NSW Ports under the T&I SEPP, which allows 'vegetation works' to be carried out 'without development consent' on land within the SP1 zone and within the Lease Area. Tenants have general obligations under their leases to keep sites clean and safe.

B4.2, C4.2 & C4.5 - Annual Environmental Management Report (AEMR) & Environmental Auditing

Questions / Comments

It's preferred that any proposed amendments to conditions conform with the Department's current standard compliance / auditing conditions.

1. *provide justification why the Department's current compliance / auditing conditions should not be adopted.*
2. *condition B4.2 is proposed to be deleted; however the consent still includes land that has not been developed nor the rail link via Foreshore Road has not been constructed. Should these areas be developed in the future under this consent, then a form of construction auditing may still be required.*

Response

As noted above, the rail line parallel to Foreshore Road was effectively removed / made redundant by Modification 7 (approved on 20 March 2009) and the subsequent decision to pursue the Alternate Rail Configuration (see Figure 3). As such, there is no intention or ability to construct the originally approved rail siding parallel to Foreshore Road.

All Construction approved under Stage 1 has been completed and therefore these conditions are proposed to be deleted or amendment to remove redundant obligations.

3. Consistency with current approaches and guidance material

The Response to Submissions report provides further details on the environmental management reporting/auditing, as well as the community consultative committees. As Stage 1 works for the projects have been largely completed, the need for some conditions is absolute as they relate to construction activities and its impacts.

4. Response to advice provided by public authorities and Bayside Council

A Response to Submissions Report has been prepared by NSW Ports. There were six submissions received from agencies. The Response to Submissions report clarifies points raised and provides additional information to satisfy the agency's concerns. 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.