

Our ref: IRF26/4786

Mr Andrew Mills
Chair
Office of the Independent Planning Commission NSW
Suite 15.02, Level 15
135 King Street
Sydney NSW 2000

4 August 2026
Subject: Referral for Determination - DA494-11-2003-I (Mod 18)

Dear Mr Mills

The Department of Planning, Housing and Infrastructure (the Department) has completed its assessment of the modification application for the Port Botany Expansion – DA494-11-2003-I (Mod 18) (the proposed modification).

NSW Ports (The Trustee for the Port Botany Unit Trust) is the Applicant for the modification. In accordance with section 4.5(a) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), the Minister for Planning and Public Spaces is the consent authority for the modification application. The Minister, on 14 September 2011, delegated his determination function to the Planning Assessment Commission (now Independent Planning Commission) in relation to reportable political donation applications. As the Applicant has made a reportable political donation, the Independent Planning Commission will determine the modification application as the Minister's delegate.

Project approval history

The consent for the State significant development (SSD) DA494-11-2003-i was granted by the then Minister for Planning on 13 October 2005 under the former section 80 of the EP&A Act.

Description of proposed modification

The Applicant proposes to modify the development consent conditions as it has been operational for approximately 20 years. As a result, several conditions are outdated or redundant. Minor amendments are required to improve the administrative and procedural efficiency of the port operations.

The key modifications proposed by the Applicant include updating references to legislation, streamlining operational conditions for improved efficiency, removing redundant conditions and amending the frequency and scope of compliance-based conditions.

Assessment of the proposed modification

The modification application was placed on the Department's website (on 30 October 2025) and notification was made to relevant public authorities and relevant councils. Advice on the proposal was received from Conservation Programs, Heritage and Regulation Group (CPHR) – NSW Department of Climate Change, Energy, the Environment and Water (NSW DCCEEW), Bayside Council and Randwick Council. Transport for NSW, Port Authority of NSW and Sydney Water had no comments or supported the proposed modification.

The Department received feedback on the proposal from a community member in November 2025, which raised concerns about community consultation and conservation of the marine environment in Botany Bay.

In assessing the merits of the proposed modification, the Department has considered the potential environmental impacts, agency advice, relevant environmental planning instruments, the suitability of the site and the public interest, in accordance with the requirements of the EP&A Act.

Based on its assessment, the Department believes that the modification is approvable, subject to recommended conditions.

I have attached a copy of the Department's assessment report, recommended instrument of modification, and other relevant documents for the Commission's consideration.

Further information about the proposal can be found on the NSW Planning Portal:

<https://www.planningportal.nsw.gov.au/major-projects/projects/mod-5-reconfiguration-reclamation-area>.

For further information or to arrange a briefing, please contact Glenn Snow, Director Transport and Water Assessments, on [REDACTED]

Yours sincerely,

[REDACTED]
Douglas Walther
Executive Director
Infrastructure Assessments

Encl:

Attachment 1: DPHI Assessment Report

Attachment 2: DPHI Recommended Modifying Instrument - DA494-11-2003-I-Mod-18

Attachment 3: DPHI Recommended Consolidated Consent - DA494-11-2003-I-Mod-18