Modification of Development Consent

Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning and Public Spaces under delegation executed on 28 September 2011, the Independent Planning Commission approve the modification of the State significant development consent referred to in Schedule 1, subject to the conditions in Schedule 2.

Andrew Mills
Chair of the Commission

Sydney 11 September 2026

SCHEDULE 1

Development consent:	DA-494-11-2003-i granted by the Minister for Planning on 13 October 2005
For the following:	The construction and operation of a new container terminal and associated infrastructure.
Applicant:	The Trustee for the Port Botany Unit Trust
Consent Authority:	Minister for Planning and Public Spaces
The Land:	Port Botany Expansion Lot 1 DP 1165618, Lot 200 DP 1183399, Lot 201 DP 1183399, Lot 202 DP 1183399, Lot 208 DP 1183399, Bayside Local Government Area
Modification:	DA494-11-2003-i-Mod-18: Operational administrative amendments

SCHEDULE 2

Note:
Words that have been deleted are shown as: ~~deleted~~
Words that have been added are shown as: added

1. Replace land described as in Schedule 1 with the following:

Land described as:
Lot 1 DP 1165618, Lot 200 DP 1183399, Lot 201 DP 1183399, Lot 202 DP 1183399, Lot 208 DP 1183399, Bayside Local Government Area.

2. Amend the State Significant Development section in Schedule 1 as follows:

Under the former Section 76A(7) (now section 4.36(2)) of the ~~Act~~ *Environmental Planning and Assessment Act 1979*, the development is classified as State Significant development by virtue of a declaration made by the then Minister for Planning on 29 June 2001 for berths for shipping, shipping terminals and associated buildings, structures and works within certain lands within the former Botany Bay Local Government Area (now Bayside Local Government Area).

3. Amend the Commission of Inquiry section in Schedule 1 as follows:

The development was subject to a Commission of Inquiry under the former section 119 of the *Environmental Planning and Assessment Act 1979*. The primary session of the Inquiry was held from 19 to 28 October 2004. The reply session of the Inquiry was held from 14 to 18 February 2005. The Commission's recommendations following the Inquiry are detailed in *Report to the Honourable Craig Knowles MP, Minister for Infrastructure and Planning, Minister for Natural Resources – Proposed Port Botany Expansion, City of Botany, Sydney Ports Corporation*, dated May 2005.

4. Amend the Staged Consent section in Schedule 1 as follows:

In accordance with the former Sections 80(4) and (5) (now sections 4.37 and 4.16(4) and (5)) of the *Environmental Planning and Assessment Act 1979*, this development consent only permits works associated with Stage 1 of the development as defined in Schedule 2, Sub-schedule A. Stage 2 works will require the issue of further development consent.

5. Amend the Appeal Rights section in Schedule 1 as follows:

There is no right of appeal to the Land and Environment Court under the former section 97 or the former section 98 (now sections 8.7 and 8.8) of the *Environmental Planning and Assessment Act 1979*, as the development is a State Significant Development into which a Commission of Inquiry was held.

6. Amend the Commencement of Consent section in Schedule 1 as follows:

Pursuant to the former section 83(1)(b) (now section 4.20) of the *Environmental Planning and Assessment Act 1979*, this development consent operates from the date that is endorsed on the notice of determination given to the Applicant, because a Commission of Inquiry has been held into the development.

Note: The above referenced notice was provided on 13 October 2005.

7. Amend the Lapse of Consent section in Schedule 1 as follows:

Pursuant to the former section 95 (now section 4.53) of the *Environmental Planning and Assessment Act 1979*, this development consent is liable to lapse five years after the date from which it operates unless the use of any land, building or work the subject of the consent is actually commenced before the date on which the consent would otherwise lapse.

8. Amend the list of abbreviations and definitions in Schedule 2 as follows:

Act	*Environmental Planning and Assessment Act 1979*
Applicant	Sydney Ports Corporation or any terminal operator(s) with a lease agreement with Sydney Ports Corporation to operate a terminal within the development area.
AQIS	Australian Quarantine and Inspection Service
ARTC	Australian~~a~~ Rail Track Corporation
CCC	Community Consultative Committee
CEMP	Construction Environmental Management Plan
Construction	~~a~~All works associated with the construction of the development.
Council	Bayside City Council, comprised of the former Botany and Rockdale Councils. ~~Further references to the former Botany and Randwick Councils remain throughout the consent.~~
CPHR	Conservation Programs, Heritage and Regulation Group, of the NSW Department of Climate Change, Energy, the Environment and Water (includes biodiversity and flooding unit).
DCCEEW	NSW Department of Climate Change, Energy, the Environment and Water
Department	~~NSW Department of Planning, Industry and Environment~~ NSW Department of Planning, Housing and Infrastructure
~~d~~Development	The development to which this consent applies.
~~DPIE~~	~~NSW Department of Planning, Industry and Environment~~
~~DPI~~ DPIRD Fisheries	Fisheries agency of Department of Primary Industries and Regional Development ~~Department of Primary Industries~~
~~DNR~~	~~Department of Natural Resources~~
EPA	Environment Protection Authority
Heritage NSW	Heritage NSW, DCCEEW
Incident	An occurrence or set of circumstances that causes or threatens to cause material harm (as defined in this consent) and which may or may not be or cause a noncompliance.
Material harm	Is harm that: (a) involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or (b) results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding $10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment).
Minister	Minister for Planning and Public Spaces, or nominee as delegated,

Non-compliance	An occurrence, set of circumstances or development that is a breach of this consent.
NSW Heritage Council	Heritage Council of NSW
Operation	~~a~~All activities associated with the operation of the development, being the movement of freight to and from the new container terminal and associated activities.
Port, Maritime and Waterway Related Interim Uses	Interim uses of the northern tip of Hayes Dock (referred to as Hayes Dock Services Area) for the mooring, loading and/or unloading of non-trading vessels, including line boats, barges and tugs including associated activities as outlined in modification application DA-494-11-2003-I MOD 14.
~~RailCorp~~	~~Rail Corporation New South Wales~~
Secretary	Secretary of the NSW Department of Planning, ~~Industry~~ Housing and ~~Environment~~ Infrastructure, or nominee as delegated.
~~s~~Site	~~t~~The land to which this consent applies, including both dry-land and wet-land components of the site.
SSROC	Southern Sydney Region of Councils
Stage 1	~~d~~Development defined in condition A2.1(a).
Terminal Footprint Infrastructure	~~t~~Those aspects of the development associated with the establishment of the Stage 1 port footprint (as generally outlined in sections 8.2 – 8.5 of Volume 1 of the EIS) including dredging and reclamation, compaction and preloading, wharf construction, road and rail infrastructure linkages, Penrhyn Estuary enhancement works.
Terminal Operations Infrastructure	~~T~~those aspects of the development associated with the establishment of terminal operations (as generally described in section 8.6 of Volume 1 of the EIS) including hardstand areas (container storage, car parks and truck queuing areas), quay cranes, rail mounted gantries, administration facilities, workshops etc.
TfNSW	Transport for NSW
~~TfNSW(RMS)~~	~~Transport for NSW (Roads and Maritime Services)(former Roads and Maritime Services)~~
Water Group	Water Group, DCCEEW

9. Replace all references to Botany Council with Bayside Council in Schedule 2, Sub-schedules A, B and C.

10. Replace all references to TfNSW(RMS) and RailCorp with TfNSW in Schedule 2, Sub-schedules A, B and C.

11. Replace all references to DPI Fisheries with DPIRD Fisheries in Schedule 2, Sub-schedules A, B and C.

12. Amend Condition A1.1 as follows:

A1.1 The approved aspects of the development shall be carried out generally in accordance with:
- ~~a)~~ Development Application DA-494-11-2003-i, lodged with the Department on 26 November 2003;~~.~~
- b) *Port Botany Expansion: Environmental Impact Statement* (ten volumes), prepared by URS Pty Ltd and dated November 2003;

c) *Port Botany Expansion Commission of Inquiry – Primary Submission* (two volumes), prepared by URS Pty Ltd and dated May 2004;
d) Port *Botany Expansion Commission of Inquiry – Supplementary Submission to Environmental Impact Statement*, prepared by URS Pty Ltd and dated August 2004;
e) *Port Botany Expansion Environmental Impact Statement – Supplementary Submission* (two volumes), prepared by URS Pty Ltd and dated October 2004; ~~and, and~~
f) modification application MOD-107-9-2006-i, accompanied by *Port Botany Expansion, Section 96(1A) Application: Modification of Consent Conditions*, prepared by Sydney Ports Corporation and dated September 2006;
g) modification application MOD-134-11-2006-i, accompanied by *Port Botany Expansion, Section 96(1A) Modification – Wharf Structure Design*, prepared by Sydney Ports Corporation and dated November 2006;
h) modification application MOD-149-12-2006-i, accompanied by *Port Botany Expansion, Section 96(1A) Modification – Application to Modify Conditions B2.9 and B2.22 of the Port Botany Consent*, prepared by Sydney Ports Corporation and dated 1 December 2006;
i) modification application MOD-78-9-2007-i, accompanied by *Port Botany Expansion – Modification of Conditions C2.20 & C2.25*, prepared by Sydney Ports Corporation and dated July 2007;
j) modification application MOD-60-9-2008, accompanied by *Port Botany Expansion – Modification of Conditions B2.46 and C2.25*, prepared by Sydney Ports Corporation and dated 27 August 2008;
k) modification application MOD-68-12-2008, accompanied by a letter from Sydney Ports Corporation and dated December 2008;
l) modification application MOD-08-03-2009, accompanied by a letter from Sydney Ports Corporation dated 16 February 2009 and assessment report titled *Port Botany Expansion – Rail Operations Section 96(1A) Modification* dated February 2009;
m) modification application 494-11-2003-I MOD 8, accompanied by an assessment report titled "*Port Botany Expansion – Ship Turning Area Dredging Section 96(1A) Modification* dated May 2009";
n) modification application DA-494-11-2003-i MOD 9, accompanied by an assessment report titled "*Port Botany Expansion – Additional High Spot Dredging off Molineux Point Section 96(1A) Modification"* dated May 2009;
o) modification application DA-494-11-2003-i MOD 10, accompanied by an assessment within letter titled "*Port Botany Expansion – Section 96(1A) Modification – Additional Ship Turning Area Dredging"* dated 8 July 2009;
p) modification application DA-494-11-2003-i MOD 11, accompanied by an assessment report titled *"Sydney Port Botany Terminal No. 3 PKG-17.1 Planning Section 75W Modification Operations Building and Maintenance Building"* dated 14 September 2011;
q) modification application DA-494-11-2003-i MOD 12, accompanied by an assessment report titled *"Sydney Port Botany Terminal No. 3 PKG-17.1 Planning Section 75W Modification to Stormwater First Flush System"* dated 15 February 2012 and supplementary advice provided on 6 June 2012 in relation to other proprietary SQID devices;
r) modification application DA-494-11-2003-i MOD 13, accompanied by an assessment report titled *"Project No. 231658 Section 75W Modification to Stormwater Management System for Southern Expansion Area"* dated 31 October 2012;
s) modification application DA-494-11-2003-i MOD 14, accompanied by assessment reports titled "*Port Botany Expansion – Section 75W Modification 14 to DA-494-11-2003i for Temporary Uses at northern tip of Hayes Dock*", dated January 2013; and "*Port Botany Expansion, Cumulative Construction Traffic Impact Assessment, Terminal Operations Infrastructure (March 2013 – March 2014)*", dated April 2013;
t) modification application DA-494-11-2003-i MOD 15, accompanied by assessment report titled '*SICTL Quay Crane Operations',* prepared by HPH and dated 20 March 2013;
u) modification application DA-494-11-2003-I MOD 16, accompanied by assessment report titled '*Port Botany Expansion Modification Application 16 to DA-494-11-2003i Permanent Uses Hayes Dock Services Area and Administrative Changes to Some Conditions'*, prepared by Lendlease and dated September 2016;

v) modification application DA-494-11-2003-I MOD 17, accompanied by letter titled '*Port Botany Expansion s4.55(1) Modification Application to DA-494-11-2003i – Administrative Update to Conditions of Approval',* prepared by NSW Ports and dated 16 October 2018; ~~and~~

w) modification application DA494-11-2003-I MOD 18, accompanied by assessment report titled '*Port Botany Expansion Modification Application 18 to DA-494-11- 2003i 'Amendments to Conditions of Approval'*, prepared by Keylan Consulting on behalf of NSW Ports and dated October 2025; response to submissions report "*Response to Submissions Report (DA494-11-2003-I-Mod-18)"* dated March 2026; Response to Request for Additional Information letter dated 3 March 2026; and Response to Second Request for Additional Information letter dated 2 July 2026; and

x) the conditions of this consent.

Insofar as they relate to the approved development.

13. Amend condition A1.2 as follows:

A1.2 In the event of an inconsistency between:

a) the conditions of this consent and any document listed from condition A.1.1a) to ~~w~~x) inclusive, the conditions of this consent shall prevail to the extent of the inconsistency; and

b) any document listed from condition A1.1 a) to ~~w~~x) inclusive, the most recent document shall prevail to the extent of the inconsistency.

14. Insert the following Note after condition A1.4:

Note: In accordance with section 32(1) of the Port Assets (Authorised Transactions) Act 2012 (unless repealed or amended otherwise), this condition has no effect to the extent that it would operate to impose a cargo throughput limit for Port Botany.

15. Amend condition A2.1 as follows:

A2.1 Pursuant to the former sections 80(4) and (5) of the Act, the development shall be undertaken in stages as follows:

a) Stage 1 comprising the construction and operation of a container terminal and associated infrastructure within the development application area as described in Schedule 1, and generally consistent with the development layout and envelope shown in Schedule 3, and described as follows:

⇒ Additional 550m plus 980m of berth face and approximately 51 hectares of land to the west of Brotherson Dock North

⇒ Provision for an extra 4 nominal berths

⇒ Dedicated road access to Foreshore Road via a bridge across the channel separating the terminal from the existing shoreline

⇒ Deleted ~~Rail access to the new terminal area by means of an extension of the existing Botany Freight Rail Line parallel to Foreshore Road including a rail bridge and culverts~~

⇒ ~~Two~~ Three new rail sidings

⇒ An inter-terminal access road and two additional rail storage sidings parallel to the northern boundary of the Patrick Terminal

⇒ Reclamation adjacent to Foreshore Road to create a recreational boat ramp, tug and support vessel facility

⇒ Restoration and enhancement of Foreshore Beach and adjoining landscape area; and,

⇒ Ecological habitat mitigation and enhancement works within Penrhyn Estuary.

b) Stage 2 comprising the construction and operation of approximately 12 hectares of additional terminal area and approximately 320m of additional quay line to accommodate a nominal fifth berth located at the northern end of the Stage 1 development.

Note: refer to Mod 7 for amended project description as an alternate rail siding configuration option was approved and constructed, which has resulted in the approved rail track along the northern edge of Penrhyn Estuary and the associated rail bridge across the estuary being no longer required.

16. Delete conditions A2.2, A2.3 and A2.4.

17. Insert the following section titles and conditions after condition A3.1:

A4. AUDITING AND REPORTING

Independent Audit

A4.1 Independent Environmental Audits of the development must be conducted and carried out in accordance with the Independent Audit Post Approval Requirements in force at the time the audit commences, as approved by the Secretary and published on the Department's website.

Incident Notification, Reporting and Response

A4.2 The Secretary must be notified via the Major Projects Website immediately after the Applicant becomes aware of an incident. The notification must identify the development (including the application number and the name of the development if it has one) and set out the location and nature of the incident.

A4.3 Subsequent notification must be given and reports submitted in accordance with the requirements set out in Schedule 5.

Non-Compliance Notification

A4.4 The Secretary must be notified via the Major Projects Website within seven days after the Applicant becomes aware of any non-compliance. The notification must identify the development (including the application number and the name of the development if it has one), identify the condition/s against which the development is non-compliant, the nature of the non-compliance; the reason for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.

A4.5 A non-compliance which has been notified as an incident under condition A4.2 does not need to be notified as a non-compliance.

18. Amend condition B1.3 as follows:

B1.3 The Applicant shall prepare a Construction Environmental Management Plan (CEMP) having regard to the Environmental Management Plan Guideline for Infrastructure Projects (Department of Planning, Industry and Environment, 2020). The CEMP ~~which,~~ must be approved by the Secretary prior to the commencement of any site preparation or construction works. The CEMP must:

- require preparation and implementation of an Environmental Training Program prior to undertaking any construction works. The Program must include a framework for training employees in environmental management and the operation of plant and equipment, including pollution control equipment, as relevant;
- ~~D~~describe all activities to be undertaken on the site during site establishment and construction of the development;
- ~~D~~describe the relevant stages/phases of construction, including a work program outlining relevant timeframes for each stage/phase.

- clearly outline stages/phases of construction that require on-going environmental management monitoring and reporting up to and beyond the commencement of operations of the terminal;
- detail statutory and other obligations that the Applicant is required to fulfil during site establishment and construction, including all approvals, consultations and agreements required from authorities and other stakeholders, and key legislation and policies;
- include specific consideration of measures to address any requirements of the ~~Department,~~ EPA, ~~DNR~~ TfNSW, DPIRD Fisheries, CPHR, Water Group and the Council during site establishment and construction (where relevant);
- describe the roles and responsibilities for all relevant employees involved in the site establishment or construction of the development;
- ~~detail how the environmental performance of the site preparation and construction works will be monitored, and what actions will be taken to address identified adverse environmental impacts;~~ details of how the environmental performance of the construction works will be managed and monitored, and what actions will be taken to avoid and/or address identified adverse environmental impacts;
- ~~include all Management Plans/Studies and Monitoring Programs required in this schedule;~~
- include arrangements for community consultation and complaints handling procedures during construction; and
- be made available for public inspection after approval of the Secretary.

Separate CEMPs may be prepared and submitted for works associated with the construction of the terminal footprint.

19. Delete conditions B1.4, B1.5, B2.2 and B2.3.

20. Delete condition B2.4 and replace with the following:

B2.4 The Applicant must minimise or prevent the emission of dust from the site.

21. Delete condition B2.5 and replace with the following:

B2.5 The Applicant must ensure that erosion and sediment controls are prepared in accordance with Managing Urban Stormwater: Soils and Construction (the blue book).

Note: All reasonably practicable erosion and sediment controls must be installed and appropriately maintained to minimise water pollution. When implementing such controls, relevant guidance in the Managing Urban Stormwater series must be considered.

22. Amend condition B2.6 as follows:

B2.6 ~~Prior to the commencement of construction activities, t~~The Applicant must ~~prepare an~~ manage Acid Sulphate Soils ~~Management Plan to assess and manage any Acid Sulphate Soils (ASS) or potential ASS (PASS). The Plan shall be prepared~~ in accordance with the Acid Sulphate Soils Manual 1998 published by the NSW Acid Sulphate Soil Management Advisory Committee. In the event that ASS are encountered during the works, the Applicant shall notify the ~~NSW Maritime Authority~~ EPA immediately.

23. Insert new condition B2.7A and subsection title as follows:

Dredging and Reclamation

B2.7A No capital dredging or reclamation works are permitted under this consent.

24. Delete conditions B2.8, B2.9, B2.10, B2.10A, B2.10B, B2.11, B2.12 and B2.13.

25. Delete condition B2.14 and replace with the following:

B2.14 The Applicant must implement traffic management measures to minimise the impact of traffic generated by the construction of the development on Foreshore Road and Botany Road traffic movements.

26. Delete conditions B2.15, B2.16 and B2.17.

27. Amend condition B2.19 as follows:

B2.19 The Applicant shall only undertake construction activities associated with the project ~~(with the exception of dredging construction activities)~~ that would generate an audible noise at any residential premises during the following hours:

a) 7:00 am to 6:00 pm, Mondays to Fridays, inclusive;
b) 8:00 am to 1:00 pm on Saturdays; and
c) at no time on Sundays or public holidays.

Audible noise is defined as “noise that can be heard at the receiver”.
This condition does not apply in the event of a direction from police or other relevant authority for safety or emergency reasons.

Note: ‘safety or emergency reasons’ refers to emergency works which may need to be undertaken to avoid loss of life, property loss and/or to prevent environmental harm.

28. Amend condition B2.19A as follows:

B2.19A The Applicant must seek the Secretary’s approval to conduct construction activities audible at residential premises ~~(with the exception of dredging construction activities)~~ outside the hours specified under condition B2.19 on a case-by-case basis. In seeking the Secretary’s approval, the Applicant shall demonstrate a need for activities to be conducted during varied hours and how local acoustic amenity will be protected, as well as details of how the EPA’s requirements with respect to the variation of hours have been addressed.

29. Delete condition B2.20 and replace with the following:

B2.20 The Applicant must implement measures to minimise noise and vibration during the construction of the development. All feasible and reasonable measures to minimise noise and vibration must be implemented.

30. Delete conditions B2.22 and B2.22A.

31. Amend condition B2.23 as follows:

B2.23 To help minimise the impact of operational noise on the surrounding area, a noise barrier shall be constructed by the Applicant along northern and eastern boundaries of the site prior to the commencement of operations. The applicant must seek appropriate independent expert advice to ensure the design of the noise barrier has regard to the flight path requirements of bird species using the area. The noise barrier must be maintained for the life of the development.

32. Amend condition B2.23A as follows:

B2.23A Subject to the alternative rail option being implemented as described within the report listed in condition A1.1I), the Applicant shall construct a three metre high noise barrier along the northern edge of the Interterminal Access Road Corridor prior to the commencement of operations. The bottom two metres of the barrier shall be opaque and the top one metre shall be of transparent material sufficiently patterned to minimise impacts to bird species utilising the adjacent Penrhyn Estuary. The noise barrier must be maintained for the life of the development.

33. Delete conditions B2.27 and B2.28.

34. Amend condition B2.24 as follows:

B2.24 The Applicant ~~is required to identify measures to be implemented to~~ must ensure that where movement alarms are fitted to vehicles, plant or equipment entering or operating on the site, such alarms are of a type that minimises noise at noise sensitive receivers.

35. Insert the following after condition B2.28:

B2.29 Deleted.

36. Amend condition B2.32 as follows:

B2.32 The Applicant is required to identify, in consultation with ~~EPA~~ CPHR, appropriate compensatory conservation projects for funding that are consistent with the Green Offsets paper ~~prepared by EPA~~ (EPA, 2002). The identification of suitable projects and funding arrangements would need to be decided on, prior to ~~dredging works or~~ construction works commencing~~e~~ within Penrhyn Estuary.

Note: The rationale to this condition is that the Applicant has committed to evaluation of the Stage 1 habitat enhancement works. If it is determined in consultation with ~~EPA~~ CPHR that the works have not been successful and that further works would also be unlikely to be successful, the Applicant would then be required to provide funding for compensatory conservation outcomes that are consistent with the Green ~~o~~Offsets paper ~~prepared by the EPA~~ (EPA, 2002).

37. Delete condition B2.33 and replace with the following:

B2.33 The Applicant must implement measures to minimise the production and generation of waste at the site during construction.

38. Amend condition B2.35 as follows:

B2.35 All wastes and material generated on the site during construction and operation shall be classified in accordance with the *Protection of the Environment Operation (Waste) Regulation 2014, Waste Classification Guidelines Parts 1-4* (EPA, 2014) (as applicable) and *Addendum to Part 1: Classifying Waste* (EPA, 2016), or any future guideline that may supersede the 2014 Guidelines and 2016 Addendum, ~~EPA's Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes~~ prior to transporting the waste off site and ~~be~~ dispos~~ed~~ing of ~~to~~ it at a facility that may lawfully accept the waste.

39. Delete condition B2.37.

40. Amend condition B2.38 as follows:

B2.38 The Applicant shall develop measures to protect remains of Government Pier in consultation with the ~~NSW heritage Office~~ Heritage NSW and NSW Heritage Council.

41. Amend condition B2.39 as follows:

B2.39 If an Aboriginal object is discovered during the construction of the development, works should cease in the subject area and the Applicant must ~~shall~~ notify ~~EPA~~ Heritage NSW immediately.

42. Delete conditions B2.40 and 2.40A.

43. Amend condition B2.41 as follows:

B2.41 The Applicant shall prepare a Construction Safety Study prior to the commencement of any stage of the construction of the terminal operations infrastructure, in accordance with *Hazardous Industry Planning Advisory Paper No. 7 – Construction Safety Study Guidelines* (DoP, ~~1992~~ 2011). The commissioning portion of the Construction Safety Study may be submitted two months prior to the commencement of commissioning. The Study shall be submitted for the approval of the Secretary prior to the commencement of any stage of the construction of the terminal operations infrastructure.

44. Amend condition B2.42 as follows:

B2.42 The Applicant shall prepare a Fire Safety Study prior to the commencement of any stage of the construction of the terminal operations infrastructure, in accordance with *Hazardous Industry Planning Advisory Paper No. 2 – Fire Safety Study Guidelines* (DoP, ~~1993~~ 2011). The Study shall be submitted for the approval of the Secretary and the Commissioner of the NSW Fire Brigades prior to the commencement of any stage of the construction of the terminal operations infrastructure.

45. Delete condition B2.43.

46. Amend condition B2.48 as follows:

B2.48 Construction may not commence until details regarding the steps and timeframes for resolution of aviation issues, including certification, has been endorsed by Air Services Australia and provided to the ~~Minister for Planning~~ Department.

47. Amend condition B3.1 as follows:

B3.1 The Applicant must meet the following requirements in relation to community consultation and complaints management:

- all monitoring, management and reporting documents required under the development consent shall be made publicly available;
- provide means by which public comments, inquiries and complaints can be received, and ensure that those means are adequately publicised; and
- includes details of a register to be kept of all comments, inquiries and complaints received by the above means, including the following register fields:
    - the date and time, where relevant, of the comment, inquiry or complaint;
    - the means by which the comment, inquiry or complaint was made (telephone, fax, mail, email or in person);
    - any personal details of the commenter, inquirer or complainant that were provided, or if no details were provided, a note to that effect;
    - the nature of the complaint;
    - any action(s) taken by the Applicant in relation to the comment, inquiry or complaint, including any follow-up contact with the commenter, inquirer or complainant; and

- if no action was taken by the Applicant in relation to the comment, inquiry or complaint, the reason(s) why no action was taken.
- ~~Provide quarterly reports to the Department and EPA, where relevant, outlining details of complaints received~~ a copy of the complaints in the Complaints Register to be provided to the Department and the EPA upon request, and within seven days of the request being made.

48. Amend condition B3.2 as follows:

B3.2 Within 6 months of this consent or prior to commencement of construction, whichever is earlier, the Applicant shall establish a Community Consultative Committee to oversee the environmental performance of the development. This committee shall:

(a) be comprised of:
- ~~2~~1 representative~~s~~ from the Applicant~~, including the person responsible for environmental management~~;
- representatives from ~~Botany Bay City Council~~ Bayside Council and Randwick Council; and
- at least 3 representatives from the local community, whose appointment has been approved by the Secretary ~~in consultation with the Council~~;

(b) be chaired by an independent party approved by the Secretary;
(c) meet at least four times a year, or as otherwise agreed by the CCC;
(d) review and provide advice on the environmental performance of the development, including any construction or environmental management plans, monitoring results, audit reports, or complaints; and
(e) Port rail noise within the Port Botany Expansion site is to be discussed by the CCC and relevant stakeholders.

Note: The Applicant may, with the approval of the Secretary, combine the function of this CCC with the function of other Community Consultative mechanisms the area, however, if it does this it must ensure that the above obligations are fully met in the combined process

49. Amend condition B3.3 as follows:

B3.3 The Applicant shall, at its own expense:

(a) ensure that ~~2~~1 ~~of its~~ representative~~s~~ attends the Committee's meetings;
(b) provide the Committee with regular information on the environmental performance and management of the development;
(c) provide meeting facilities for the Committee and / or allow for online meetings;
(d) arrange site inspections for the Committee, if necessary;
(e) take minutes of the Committee's meetings;
(f) make these minutes available on the Applicant's website within 14 days of the Committee meeting, or as agreed to by the Committee; and
(g) respond to any advice or recommendations the Committee may have in relation to the environmental management or performance of the development.~~; and~~
~~(h) forward a copy of the minutes of each Committee meeting, and any responses to the Committee's recommendations to the Secretary within a month of the Committee meeting.~~

50. Delete condition B3.4.

51. Amend condition B3.5 as follows:

B3.5 As part of terminal footprint infrastructure construction, the Applicant shall construct a pedestrian bridge accessible to wheelchairs over the Botany Freight Rail line at Banksia Street. <u>The pedestrian bridge must be maintained for the life of the development.</u>

~~*Note: the pedestrian bridge required in condition B3.5 does not form part of the Community Enhancement Program in Condition B3.4*~~

52. Delete conditions B4.1, B4.2, B4.3, B4.4, B4.5 and the accompanying Note.

53. Delete condition B4.6 and replace with the following:

B4.6 <u>The Applicant must ensure that maintenance issues including safety, vegetation management, feral pest management and other issues identified by the Secretary, are managed in the expansion area.</u>

54. Amend condition C1.2 as follows:

C1.2 The conditions in this sub-schedule of the consent must be complied with by the Applicant, or any party undertaking the activities and works referred to under condition C1.1, with the exception of the undertaking of Port, Maritime and Waterway Related Interim Uses at Hayes Dock Services Area, which are subject to condition C1.2A-C1.2<u>E</u>~~F~~. Should more than one terminal operator undertake operations within the terminal area, compliance with the conditions of this Schedule may be undertaken individually by operators, or collectively.

55. Amend condition C1.2A as follows:

C1.2A The conditions in this sub-schedule of the consent <u>and conditions A4.2, A4.3, A4.4 and A4.5</u> must be complied with by the Applicant, or any party undertaking activities and works associated with Port, Maritime and Waterway Related Uses Interim Uses, except conditions C1.3, ~~C1.4 C1.5,~~ C2.5, C2.12, C2.16, C2.17, C2.18, C2.20, C2.25, C3.1~~,~~ <u>and</u> ~~C3.2, C3.3, C4.2, C4.3,~~ C4.4 ~~and C4.5~~.

56. Amend condition C1.2E as follows:

C1.2E A complaint handling procedure shall be implemented for the Hayes Dock Services Area. ~~Annual reports shall be provided to the Department, outlining details of the complaints received.~~ A register of complaints shall be kept and include the following:

- date and time, where relevant, of the comment, inquiry or complaint,
- how the comment, inquiry or complaint was communicated,
- any personal details of the commenter, inquirer or complainant that were provided. If no details were provided this should be recorded,
- the nature of the comment, inquiry or complaint,
- any actions taken by the Applicant in relation to the comment, inquiry or complaint, including any follow-up contact, and
- if no action was taken, record the reason(s) why.

<u>Copies of the complaints in the Complaints Register must be provided to the Department and the EPA upon request, and within seven days of the request being made.</u>

57. Delete condition C1.2F.

58. Amend condition C1.3 as follows:

C1.3 The Applicant shall prepare an Operation Environmental Management Plan (OEMP) having regard to the Environmental Management Plan Guideline for Infrastructure Projects (Department of Planning, Industry and Environment, 2020). The OEMP must be approved by the Secretary prior to commencement of any operations at the terminal. The OEMP must:

- identify all statutory obligations that the Applicant is required to fulfil in relation to operation of the development, including all consents, licences, approvals and consultations;
- describe any relevant staging or phasing of the commencement of operations within the terminal envelope and any relevant timeframes;
- clearly outline what aspects of environmental management, monitoring and reporting would be undertaken by the Applicant or jointly with other operators within the terminal area;
- include a description of the roles and responsibilities for all key employees involved in the operation of the development;
- include overall environment policies and principles to be applied to the operation of the facility;
- include specific consideration of measures to address any requirements of ~~DPIE~~, EPA, DPIRD Fisheries, CPHR, Water Group and the Council during operation (as relevant);
- detail standards and performance measures to be applied to the development, and a means by which environmental performance can be periodically reviewed and improved, where appropriate;
- detail management policies to ensure that environmental performance goals are met and to comply with the conditions of this consent;
- include the Management Plans relevant to operation, include the environmental monitoring requirements relevant to operation; and
- be made available for public inspection after approval of the Secretary.

59. Delete conditions C1.4 and C1.5.

60. Amend condition C2.5 as follows:

C2.5 Prior to the commencement of operations, the Applicant must prepare an Operation Noise Management Plan in consultation with EPA, ~~DPIE, Botany~~ Bayside and Randwick Councils. The Plan shall include noise management, mitigation monitoring and reporting to ensure that local acoustic amenity is not adversely impacted. In addition, the Operational Noise Management Plan must:

- identify general activities that will be carried out and associated noise sources;
- assess operation noise impacts at the relevant receivers;
- a primary objective of achieving the operational noise limits outlined in this consent;
- provide details of overall management methods and procedures that will be implemented to control noise from the development;
- include a pro-active and reactive strategy for dealing with complaints including achieving the operation noise limits, particularly with regard to verbal and written responses;
- detail noise monitoring, reporting and response procedures consistent with the requirements of EPA;
- provide for internal audits of compliance of all plant and equipment;
- indicate site establishment timetabling to minimise noise impacts;
- include procedures for notifying residents of operation activities likely to affect their noise amenity;
- address the requirements of EPA;
- a strategy to identify operational practices and noise controls that can minimise/or reduce noise levels from container impacts, audible alarms and other short duration -high level noise events;

- identify opportunities to reduce operational noise levels including, but not necessarily limited to, selection of equipment, engineering noise controls and shore based power; and,
- be approved by the Secretary prior to the commencement of operation.

61. Amend condition C2.7 as follows:

C2.7 Noise from the premises is to be measured at the most affected point within the residential boundary, or at the most affected point within 30 metres of the dwelling where the dwelling is more than 30 metres from the boundary, to determine compliance with the noise level limits in ~~C~~condition C2.6 unless otherwise stated.

62. Amend condition C2.12 as follows:

C2.12 Prior to the commencement of terminal operations, the ~~a~~Applicant must prepare an Operational Traffic Management Plan in consultation with TfNSW~~(RMS)~~, ~~DPIE, Botany~~ Bayside and Randwick Councils and SSROC. The Applicant shall address the requirements of these organisations in the Plan. The Applicant shall also consult with the Community Consultative Committee in preparation of the Plan. The ~~p~~Plan must include, but not be confined to, mitigation measures identified in EIS such as:

- identification of preferred routes to minimise noise impacts on the surrounding community;
- physical and operational measures (including signage) to mitigate noise impacts from vehicles accessing and leaving the terminal;
- measures to limit the impact of traffic noise on Foreshore Road and Botany Road;
- driver education and information to promote driver habits to minimise noise; and
- timetabling, scheduling and details of vehicle booking systems.

The ~~p~~Plan must be submitted and approved by the Secretary prior to the commencement of operations.

63. Amend condition C2.13A as follows:

C2.13A The management of waste for uses and activities not subject to an Environmenta~~l~~ Protection ~~l~~Licence, shall be managed and disposed~~s~~ of in accordance with the *Protection of the Environment Operation (Waste) Regulation* ~~2005~~ *2014*, ~~and~~ the *Waste Classification Guidelines* (Parts 1-4 as applicable) (EPA, 2014~~DECCW 2009~~), and the *Addendum to Part 1: Classifying Waste* (EPA, 2016), or any future guideline and addendums that may supersede the 2014 Guidelines and 2016 Addendum ~~that document~~. All waste materials removed from the site shall only be directed to a waste management facility lawfully permitted to accept the materials.

64. Amend condition C2.16 as follows:

C2.16 Prior to the commencement of operation, the Applicant shall develop management measures in consultation with the Department ~~Major Hazards Unit of DPIR~~ regarding the use of the new terminal for loading, unloading and storage of dangerous goods of Classes 2.3 and 6.

65. Insert the following after condition C2.18:

C2.19 Deleted.

66. Amend condition C2.20 as follows:

C2.20 The Applicant shall develop an~~d~~ Emergency Response and Incident Management Plan in consultation with EPA, ~~DPIE,~~ Council and the Community Consultative Committee. The Plan must be approved by the Secretary prior to the commencement of operations and shall detail:

- terminal security and public safety issues;
- effective spill containment and management;
- effective fire fighting capabilities;
- effective response to emergencies and critical incidents; and
- a single set of emergency procedures, consistent with the existing Port Botany Emergency Plan, should be developed that be scaled as appropriate for any incident or emergency.

67. Amend condition C2.22 as follows:

C2.22 The Applicant shall ensure that all operation equipment is below the obstacle limitation surface, unless otherwise permitted by an approval under the *Airports Act 199~~9~~6* and *Airports (Protection of Airspace) Regulation 1996~~6~~.*

68. Amend condition C3.1 as follows:

C3.1 The Applicant must meet the following requirements in relation to community consultation and complaints management:

- all monitoring, management and reporting documents required under the development consent shall be made publicly available;
- provides means by which public comments, inquiries and complaints can be received, and ensure that those means are adequately publicised; and
- includes details of a register to be kept of all comments, inquiries and complaints received by the above means, including the following register fields:
  - i. the date and time, where relevant, of the comment, inquiry or complaint;
  - ii. the means by which the comment, inquiry or complaint was made (telephone, fax, mail, email or in person);
  - iii. any personal details of the commenter, inquirer or complainant that were provided, or if no details were provided, a note to that effect;
  - iv. the nature of the complaint;
  - v. any action(s) taken by the Applicant in relation to the comment, inquiry or complaint, including any follow-up contact with the commenter, inquirer or complainant;
  - vi. if no action was taken by the Applicant in relation to the comment, inquiry or complaint, the reason(s) why no action was taken; and
- ~~Provide quarterly reports to the Department and EPA, unless otherwise agreed by the Secretary, outlining details of the complaints received~~ a copy of the complaints in the Complaints Register to be provided to the Department and the EPA upon request, and within seven days of the request being made.

69. Amend condition C3.2 as follows:

C3.2 At least 6 months prior to commencement of operations, the Applicant shall establish a Community Consultative Committee to oversee the environmental performance of the development. This committee shall:

(a) be comprised of:

- ~~2~~1 representative~~s~~ from the Applicant~~, including the person responsible for environmental management~~;
- 1 representative from ~~Botany Bay City Council~~ Bayside Council and Randwick Council; and

- at least 3 representatives from the local community, whose appointment has been approved by the Secretary ~~in consultation with the Council~~;

(b) be chaired by an independent party approved by the Secretary;
(c) meet at least four times a year, or as otherwise agreed by the CCC;
(d) review and provide advice on the environmental performance of the development, including any construction or environmental management plans, monitoring results, audit reports, or complaints; and
(e) port rail noise within the Port Botany Expansion site is to be an ongoing agenda item to be discussed by the CCC and relevant stakeholders.~~; and~~
~~(f) within 12 months of the commencement of MOD 16, an advertisement must be placed for new members to join the CCC, given that the other working groups such as the RNWG are no longer present.~~

Note: The Applicant may, with the approval of the Secretary, combine the function of this CCC with the function of other existing Community Consultative mechanisms the area, including the construction phase CCC (Condition B3.2) however, if it does this it must ensure that the above obligations are fully met in the combined process.

70. Amend condition C3.3 as follows:

C3.3 The Applicant shall, at its own expense:
(a) ensure that ~~2~~1 ~~of its~~ representative~~s~~ attends the Committee's meetings;
(b) provide the Committee with regular information on the environmental performance and management of the development;
(c) provide meeting facilities for the Committee and / or allow for online meetings;
(d) arrange site inspections for the Committee, if necessary;
(e) take minutes of the Committee's meetings;
(f) make these minutes available on the Applicant's website within 14 days of the Committee meeting, or as agreed to by the Committee; and
~~(g)~~ respond to any advice or recommendations the Committee may have in relation to the environmental management or performance of the development.~~; and~~
~~(h) forward a copy of the minutes of each Committee meeting, and any responses to the Committee's recommendations to the Secretary within a month of the Committee meeting.~~

71. Delete conditions C4.1 and C4.2.

72. Insert the following after 'C4.2 Deleted'.

Environmental Representative
C4.3 Deleted.

73. Delete condition C4.5 and accompanying Note.

74. Replace the figure in schedule 3 with the following figure:

Note: refer to the yellow highlighted rail spur – Mod 7 approved an alternate rail siding configuration and has since been constructed. As the alternate rail configuration option was chosen, the approved rail track along the northern edge of Penrhyn Estuary and the associated rail bridge across the estuary is no longer required.

75. Insert Schedule 5 after Schedule 4 as follows:

SCHEDULE 5 - WRITTEN INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS

1. A written incident notification addressing the requirements set out below must be submitted to the Department via the Major Projects website within seven (7) days after the Applicant becomes aware of an incident. Notification is required to be given under this condition even if the Applicant fails to give the notification required under condition A4.2 or, having given such notification, subsequently forms the view that an incident has not occurred.

2. Written notification of an incident must:
   (a) identify the development and application number;
   (b) provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);
   (c) identify how the incident was detected;
   (d) identify when the Applicant became aware of the incident;
   (e) identify any actual or potential non-compliance with conditions of approval;
   (f) describe what immediate steps were taken in relation to the incident;
   (g) identify further action that will be taken in relation to the incident; and
   (h) identify a project contact for further communication regarding the incident.

3. Within 30 days of the date on which the incident occurred or as otherwise agreed to by the Secretary, the Applicant must provide the Secretary and any relevant public authorities (as determined by the Secretary) with a detailed report on the incident addressing all requirements below, and such further reports as may be requested.

4. The Incident Report must include:
   (a) a summary of the incident;
   (b) outcomes of an incident investigation, including identification of the cause of the incident;
   (c) details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence; and
   (d) details of any communication with other stakeholders regarding the incident.

End of modification

(DA494-11-2003-i-Mod-18)