

INDEPENDENT REVIEW

# **Ports and Maritime Administration Act 1995 & Port Botany Landside Improvement Strategy**

Discussion Paper

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## Foreword

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I am pleased to lead the review of the *Ports and Maritime Administration Act 1995* (the Act) and the Port Botany Landside Improvement Strategy (PBLIS).



The Act establishes the framework for ports and maritime management across NSW, including in relation to marine safety, port operators and port charges, as well as wharves, moorings and port facilities. PBLIS was introduced in 2010 to improve efficiency and productivity of container movements at Port Botany, by regulating the performance of road carriers and stevedores.

Together, these regulatory frameworks play a key role in maintaining a safe and effective ports and maritime environment. The State's three trading ports have grown to contribute more than \$6 billion to NSW's economy each year – examining the regulatory framework that underpins the effective operation of the ports is important to ensure that NSW continues to be internationally competitive.

This review will determine whether the current frameworks remain appropriate and effective for meeting their objectives, now and into the future. Working with all interested stakeholders, it will look at how we can improve efficiency and operations at our ports, and as an outcome of the review, I will make recommendations to the NSW Government on any appropriate changes to the Act or PBLIS.

This Discussion Paper is the first step of the review and is important for setting the scene and laying the foundations for the review. It provides an overview of the Act and its key functions and outlines port landside performance under PBLIS. Further information on the Port Botany supply chain, history of PBLIS and relevant stakeholder engagement and industry action are outlined in a supplementary paper.

I invite you to make a submission on any of the issues raised or any other matters of relevance, as well as the questions seeking specific comment. Stakeholder consultations on the Discussion Paper will commence in February 2022.

I look forward to receiving your feedback on this paper and engaging with you over the course of the review.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ed Willett', written in a cursive style.

**Ed Willett**  
Independent Reviewer

# Glossary

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**ACCC - Australian Competition and Consumer Commission:** Has a role, among others, to monitor the prices, costs and profits of container terminal operator companies at the ports of Adelaide, Brisbane, Burnie, Fremantle, Melbourne and Sydney.

**Act - Ports and Maritime Administration Act 1995**

**BITRE - Bureau of Infrastructure and Transport Research Economics:** BITRE releases, among other publications, annual Waterline reports that provide information on container movements on both the quayside and the landside of the ports at Brisbane, Sydney, Melbourne, Adelaide and Fremantle.

**Dual runs:** When import and export containers are serviced by a single truck by delivering one or more export containers and picking up one or more import containers on the same trip.

**IPART - NSW Independent Pricing and Regulatory Tribunal:** IPART is the independent pricing regulator for water, energy, transport and local government.

**Mandatory Standards:** Port Botany Landside Operations Mandatory Standards under Part 6 of the Ports and Maritime Administration Regulation 2021.

**MAC - Maritime Advisory Council:** Established under Part 3 of the Act to provide advice to the Minister on the operation of maritime legislation, maritime safety and expenditure priorities relating to maritime infrastructure and research for recreational and domestic commercial vessels. It does not provide advice on freight related matters.

**Minister - NSW Minister for Transport and Roads**

**Mode share:** The relative proportions of containers transported to and from stevedores by road and rail.

**PBLIS - Port Botany Landside Improvement Strategy**

**Port Authority- Port Authority of New South Wales:** NSW Government State-owned corporation.

**Regulation - The Ports and Maritime Administration Regulation 2021**

**Road carrier:** Truck operators that move containers to and from the port, intermodal terminals and empty container parks on behalf of importers and exporters, or their freight forwarders.

**Road carrier service levels:** Measure of on time arrival at the terminal for the designated time zone with the appropriate truck configuration for the booked containers.

**Slot Reduction requests:** Slot Reduction requests are made to request times for maintenance or other circumstances where the stevedore is not able to service trucks as required under the Regulation.

**Stevedores:** Terminal operators that provide quayside and landside services through the handling of containerised freight from vessels, trucks and trains.

**Stevedore service levels:** Measure of the percentage of trucks that stevedores service within the allowed time frame under PBLIS.

**TEU - Twenty-foot Equivalent Unit:** TEU is the standard unit of measurement



for shipping containers. One TEU is equivalent to one 20-foot shipping container (dimensions are 20 feet long and 8 feet wide). One 40-foot shipping container (FEU) is equivalent to two TEUs.

**TfNSW - Transport for NSW**

**The Waterways Fund:** Established under Part 4 of the Act and administered by TfNSW, the Waterways Fund includes money collected from penalties for offences under the Act and can only be used for specific purposes in accordance with the Act.

**TTT - Truck Turnaround Time:** A measure of the amount of time stevedores take to load or unload containers on trucks at their terminals.

**Unforeseen events:** Unforeseen Events are when the PBLIS rules cannot be met for unexpected reasons. There are certain criteria for assessing these events within the Mandatory Standards.

**VBS - Vehicle Booking System:** A booking system (online software tool) used by stevedores to enable road carriers to make, cancel or exchange bookings to pick up or drop off a container at the stevedore's terminal.





INDEPENDENT REVIEW

Ports and Maritime Administration Act 1995  
& Port Botany Landside Improvement Strategy

# Introduction



# 1 Introduction

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## 1.1 Review scope

On 12 November 2021, the NSW Government announced a comprehensive review of the [Ports and Maritime Administration Act 1995](#) (the Act) and the Port Botany Landside Improvement Strategy (PBLIS). The Review is being led by Mr. Ed Willett, the Independent Reviewer, and will be supported by Transport for NSW (TfNSW).

The review will be guided by the NSW Government better regulation principles<sup>1</sup> and evidence-based research and analysis, including independent external inputs and detailed engagement with stakeholders. It will also consider feedback provided during the recent Ports and Maritime Administration Regulation remake process that was deferred for consideration as part of a comprehensive review, as well as feedback provided by stakeholders through other channels.

### Ports and Maritime Administration Act 1995

The Act sets the framework for ports and maritime management across NSW, including relevant functions of the Port Authority of New South Wales (the Port Authority), the two private port operators (Port of Newcastle and NSW Ports) and TfNSW. It also specifies the marine safety functions of the Minister and contains provisions relating to the management of wharves and moorings, port price monitoring and the regulation of parts of the port supply chain. The Act is relevant for the freight industry and the recreational and domestic commercial vessel sectors.

The review of the Act will include an assessment of its policy objectives, and consideration of whether those objectives remain suitable. The review will then consider whether the Act requires any changes to deliver the policy objectives. It is appropriate that a comprehensive review of the Act is undertaken to ensure the framework underpinning ports and maritime administration in NSW is appropriate and effective.

Further detail on the review of the Act is at Chapter 2.

### Port Botany Landside Improvement Strategy

PBLIS was introduced in 2010 to support improved efficiency and reduced congestion in and around the Port Botany precinct. PBLIS is a regulated arrangement that covers the performance of stevedores and road carriers at the container terminals.

Parts of the freight industry have called for a review of PBLIS and it is appropriate that a comprehensive review of the regulatory framework that covers the landside interface of the Port Botany container terminals is undertaken, to ensure it is supporting efficiency and productivity at the port.

PBLIS is established under the Act, with the details set out in Part 6 of the [Ports and Maritime Administration Regulation 2021](#) (the Regulation) and in the separate [Port Botany Landside Operations Mandatory Standards](#) (Mandatory Standards). The review will consider:

- why PBLIS was introduced and what it was expected to achieve
- what PBLIS has achieved to date (using data to the end of November 2021)
- whether PBLIS remains the best approach. And, if so, whether the PBLIS arrangements are appropriate, and if not, what are the alternative options.

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<sup>1</sup> NSW Treasury 2021, [NSW Government Guide to Better Regulation](#), Sydney, NSW, pp. 4-7.

The review will consider the broader supply chain operating environment in relation to PBLIS, the expected future port environment and whether there have been any direct or indirect costs or savings resulting from PBLIS and any unintended adverse impacts on the supply chain. Further details on the review of PBLIS can be found in Chapter 3. Additional information on the Port Botany supply chain, a historical timeline of key events related to PBLIS and a summary of relevant stakeholder engagement and industry action is provided in a [Supplementary Paper](#).

### **Out of scope**

Some matters are out of scope for the review.

NSW's three largest ports were leased to private operators: Port Botany and Port Kembla to NSW Ports in 2013 for 99 years and Newcastle Port to the Port of Newcastle in 2014 for 98 years. The roles and responsibilities of the private port operators are contained in these leases and the Act. The review recognises that the long-term lease arrangements remain in place and are not subject to this review. As such, the parts of the Act relating to the private port operators can only be considered in the review within the context of the continuation of those long-term arrangements. NSW Treasury, as the port lessor, will be engaged on the review.

In addition, specific consideration of stevedore charges, beyond current references in relation to PBLIS penalties, will be out of scope for this review. In recognition of these charges as a national economic issue, the NSW Government has referred a request for their review to the Federal Government for consideration. Most stevedores operate across Australia's major container ports. Stevedore charges are relevant for the overall container freight supply chain, and visibility of the full costs throughout the supply chain, as well as the ultimate impacts on customers, the economy and the people of Australia are needed to appropriately consider this matter. The existing PBLIS requirements that apply to stevedore charges will be considered in the review, noting these existing requirements do not go to the question of pricing.

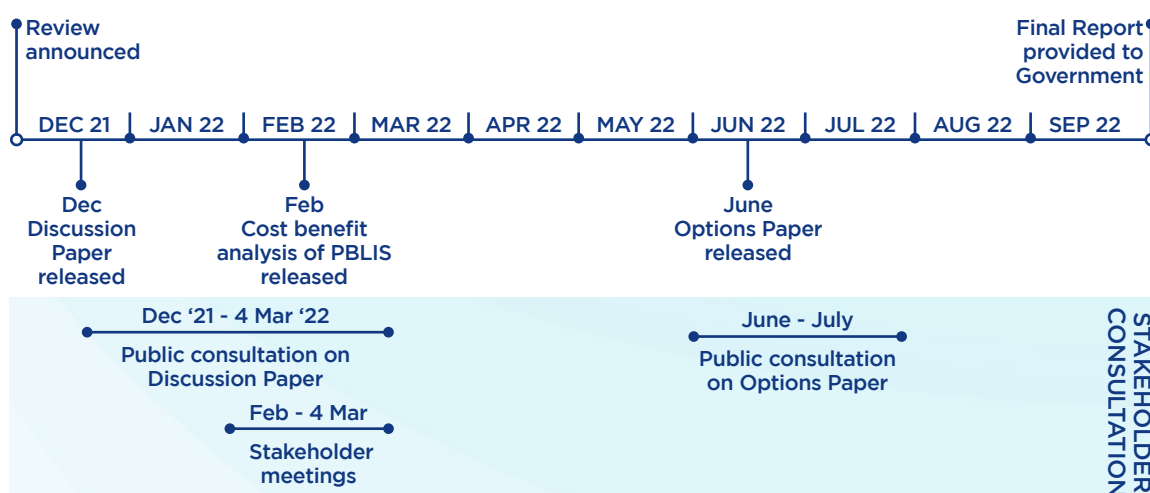
The review will not consider parts of the Regulation not relevant to PBLIS. These parts of the Regulation were recently reviewed by TfNSW during the remake of the Regulation. If consequential amendments are required to the Regulation as a result of proposed changes to the Act, these will be progressed as a part of the standard Act review process.

## **1.2 Review process**

The process for the Review as outlined in Figure 1 (P9) is as follows:

- **December 2021:** Discussion Paper released
- **December 2021 to 4 March 2022:** Public consultation on Discussion Paper
- **February to 4 March 2022:** Stakeholder engagement meetings
- **February 2022:** Supporting analysis released - cost benefit analysis of PBLIS
- **June 2022:** Options Paper released
- **June to July 2022:** Public consultation on Options Paper
- **September 2022:** Independent Reviewer's Final Report with recommendations provided to government

FIGURE 1: The Act and PBLIS Review process



### 1.3 Make a submission

Stakeholders are invited to submit feedback on the Act and PBLIS. Comments and suggestions can be provided on individual matters or on the Act or PBLIS as a whole. Questions are asked throughout this paper to help you prepare a submission, and are listed in Appendix One. The questions reflect the areas the review will focus on. **Public consultation on this Discussion Paper is open until 4 March 2022.**

Submissions can be made:

**Online:** [yoursay.transport.nsw.gov.au/hub-page/pamareview](https://yoursay.transport.nsw.gov.au/hub-page/pamareview)

**By email:** [Freight@transport.nsw.gov.au](mailto:Freight@transport.nsw.gov.au)

**By post:** Review of the PAMA Act and PBLIS  
Freight Policy and Regulatory Reform

Transport for NSW  
PO Box 973  
Parramatta NSW 2124  
DX28555 Parramatta

If you need to access a translation and interpreting service, please telephone 1300 651 500 or visit the Language Services page of the Multicultural NSW website:

<https://multicultural.nsw.gov.au/services>

### 1.4 What will happen with the submission?

Feedback received during consultation on the Discussion Paper will inform the review of the Act and PBLIS and the development of any proposed changes. Proposed changes will be detailed in the Options Paper and stakeholders will have the opportunity to provide feedback on these in the second stage of the public consultation process.

Submissions will be made publicly available, with personal details redacted. If you do not want any part of your submission published, please indicate this clearly. We may still refer to your anonymous submission in reports. Automatically generated confidentiality statements in emails are not sufficient.

There may be times where the Government is required to release the content of your submission, under the *Government Information (Public Access) Act 2009*.





INDEPENDENT REVIEW

Ports and Maritime Administration Act 1995  
& Port Botany Landside Improvement Strategy

# Ports and Maritime Administration Act 1995



## 2 Ports and Maritime Administration Act 1995

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### 2.1 Context

The Act establishes the framework for ports and maritime management across NSW. This chapter provides an overview of the Act. The Act can be viewed [here](#) in full.

### 2.2 Marine safety and other functions

#### Marine safety

The Minister has responsibility for marine safety, including the safe operation of recreational and commercial vessels, safety of navigation in ports and other waters and environmental protection in connection with the use of vessels in State waters (Part 3 of the Act). This includes the provision of marine safety and other infrastructure and services for use by vessels, as well as investigation of marine accidents and incidents. The Minister's functions under the Act and the Regulation can be delegated to support effective implementation of relevant provisions.

#### Minister's other functions

The Minister is also responsible for managing commercial port facilities and contracting for pilotage services and supply of services – if these functions are not performed by a port corporation – as well as the acquisition of land (Part 3).

Section 10B enables the regulation of parts of the port supply chain to promote competition and productivity at the ports of Sydney Harbour, Botany Bay, Newcastle and Port Kembla. PBLIS is implemented in the Regulation and the Mandatory Standards under this power.

#### Maritime Advisory Council

The Maritime Advisory Council (MAC) is established under Part 3 of the Act. It provides advice to the Minister on the operation of marine legislation, maritime safety and expenditure priorities relating to maritime infrastructure and research in relation to recreational and domestic commercial vessels. It does not provide advice on freight related matters.

Members are appointed by the Minister. They must have demonstrated individual expertise across one or more of the recreational boating, commercial vessel or maritime property sectors<sup>2</sup>.

The MAC was renewed in 2020 following a public Expression of Interest process, consistent with the Public Service Commissioner's Appointment Standards for Boards and Committees in the NSW Public Service. The MAC currently has ten members, whose membership will lapse in August 2023. Further details of the Council can be found [here](#).

Meetings are held bi-annually or at the Minister's discretion.

#### Transport for NSW functions

TfNSW is responsible for maritime and other functions under the Act<sup>3</sup>, as delegated by the Minister, as well as the management of relevant property.

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<sup>2</sup> The Regulation covers the MAC governance arrangements. Members are not reimbursed for their participation, although reasonable travel expenses may be recouped.

<sup>3</sup> As well as other 'marine legislation'. This includes the PAMA Act, [Marine Safety Act 1998](#), the [Marine Pollution Act 2012](#), and their associated regulations and other instruments. TfNSW also has responsibilities under the Commonwealth [Marine Safety \(Domestic Commercial Vessel\) National Law Act 2012](#).

## Waterways Fund

TfNSW also administers the Waterways Fund under Part 4 of the Act, which includes money collected from penalties for offences under the Act<sup>4</sup>.

The Waterways Fund can only be used in accordance with the Act for specific purposes including meeting expenditure related to TfNSW functions under the Act; payments authorised by the Minister to fund the Minister's functions relating to marine safety and provision of maritime infrastructure and services for vessels; and remuneration of TfNSW staff engaged in the administration of the Act.

The Waterways Fund directly benefits maritime customers by enabling reinvestment of all TfNSW maritime property-related income, and vessel-related fees and charges, to build and maintain maritime infrastructure and deliver maritime safety and service programs across the State.

Examples include the Boating Now Program, which has resulted in increased accessibility and safety across NSW Waterways through the delivery of more than 200 infrastructure projects.

In addition, in October 2020 the NSW Government announced a \$205 million investment commitment in regional maritime infrastructure, regional dredging, ferry wharf upgrades and Maritime property improvements, to be funded from the Waterways Fund.

The Waterways Fund also benefits the broader NSW community by operating as a self-sustaining funding source for the delivery of maritime functions and infrastructure, and supporting broader NSW Government social, economic and sustainability outcomes.

## Safety directions

Under Part 4A of the Act, TfNSW or the Port Authority may give directions to users to maintain or improve safety and security at a port (other than a private port) or wharf owned by them. If these directions are not complied with, the Act allows enforcement action to be taken<sup>5</sup>.

## FOR CONSIDERATION

1. Do you have any feedback on the marine safety functions under the Act?
2. Do you have any feedback on provisions of the Act in relation to the Maritime Advisory Council or the Waterways Fund?

## 2.3 Port operators

### Port Authority

The Port Authority is the trading name of the Newcastle Port Corporation, which is the only statutory State-owned port corporation currently established in NSW. The objectives of port corporations are to be a successful business and to:

- promote and facilitate trade through its port facilities
- promote and facilitate a competitive commercial environment in port operations
- improve productivity and efficiency in its ports and the port related supply chain and;
- ensure that its port safety functions are carried out properly.

The Port Authority's Port Safety Operating Licence is issued by the Minister and enables the Port Authority to perform port safety functions in the ports of Sydney

<sup>4</sup> Except where those penalties are paid to a port corporation.

<sup>5</sup> Exercised by TfNSW or Port Authority staff, as well as 'authorised officers' – including removal of a vehicle, vessel or goods.



Harbour, Botany Bay, Newcastle, Port Kembla, Yamba and Eden.

Port safety functions include:

- pilotage
- port communications
- maintenance and inspection of navigational aids
- survey, monitoring and information sharing about depths of channels and berthing boxes; as well as fixing and collection of pilotage charges and navigation service charges at some ports
- administration of dangerous goods legislation
- emergency response and acting as lead agency for responses to maritime incidents, including investigation of marine pollution incidents
- maintenance of the Vessel Arrival System for coal loading vessels at Port of Newcastle and;
- towage, including promotion of a non-exclusive Towage Licence in Sydney Harbour, Botany Bay, Newcastle and Port Kembla.

The Port Authority also owns and operates berths at Glebe Island, White Bay, Eden and Yamba, and acts as Harbour Master (directing and controlling the movements, entry and exit of vessels within port areas) in all six of the major NSW ports under the *Marine Safety Act 1998*.

### **Private operators**

Two private port operators – Port of Newcastle and NSW Ports – are responsible for the commercial operation and management of NSW’s three largest ports under long-term lease arrangements. Port Botany and Port Kembla were leased to NSW Ports in 2013 for 99 years and Newcastle Port was leased to Port of Newcastle in 2014 for 98 years. The roles and responsibilities of the private port operators are contained in these leases and the Act.

A private port operator has the power to give directions related to safety or security under the Act and enforce compliance (with other responsibilities covered under the lease arrangements) (Part 3A)<sup>6</sup>. They can also require information from port users to support compliance monitoring, calculation and collection of port charges and compilation of statistics.

During the recent remake of the Regulation, stakeholder requests included the review of some port operator provisions under the Act, including the traffic control powers at ports and wharves.

## **FOR CONSIDERATION**

3. Do you have any feedback on the Port Authority or private port operator provisions in the Act?

## **2.4 Port Charges**

### **Charges**

A range of port charges may be applied by relevant port authorities for different activities at specific sites (under Part 5) such as navigation services, pilotage, berthing, site occupation, wharfage and use of port infrastructure.

Port charges in the Act are relevant for vessels accessing ports at Sydney Harbour, Botany Bay, Newcastle, Port Kembla, Yamba and Eden.

<sup>6</sup> The private port operators are required to provide biannual reports to the Minister on the use of port operator directions. The Minister may publish reports using this information.

## Port price monitoring

The objective of the port price monitoring scheme is to promote the efficient operation and use of, and investment in, major port facilities. It also seeks to promote a competitive commercial environment in port operations, by monitoring the prices port operators charge for the use of those facilities.

Port operators are required to notify the Minister (Part 6) of new charges and changes to or removal of existing charges. They are also required to publish information about planned changes on their website.

Under the port price monitoring scheme, annual reports on port charges revenue are provided to the Minister. The Minister is able to publish reports and statements using this information.

During recent consultation on the remake of the Regulation, some stakeholders requested a review of the NSW Government port price monitoring scheme, including its potential strengthening.

## FOR CONSIDERATION

4. Do you have any comments on the Act coverage of port charges and the port price monitoring scheme?

## 2.5 Management of wharves, moorings, port facilities and works

Access to wharves and moorings by recreational and domestic commercial vessels in NSW is covered by the Act (Part 6A).

For commercial vessels, relevant authorisation is required to access wharves, piers, jetties, landing stages or docks in Sydney Harbour (that are owned by TfNSW)<sup>7</sup>.

TfNSW has established a Wharf Access Policy to provide consistent and transparent arrangements for commercial vessel operators seeking to use the network of Commuter and Charter Wharves in Sydney Harbour and its tributaries; and to ensure that public transport services provided under contract to TfNSW are provided priority access to the wharves to deliver timetabled passenger services.

There are over 27,000<sup>8</sup> mooring sites across NSW. Only holders of a private mooring licence are permitted to moor their vessel on navigable waters. Private mooring licences are issued to individuals for vessels 5.2 metres or more in length that are registered in NSW. These licences are subject to special conditions relating to the mooring apparatus and vessel, with other conditions applied as required. The licences are not leases of the seabed and there is no guarantee of tenure. A private mooring licence cannot be traded or sub-let in any way.

A commercial mooring licence is issued to TfNSW approved marine businesses, clubs and associations. A commercial licence permits vessels to occupy moorings under a commercial arrangement, with licence conditions relating to the apparatus and vessel and other conditions applied as required.

TfNSW also offers a number of courtesy moorings, which are free for the boating public and available to use in most locations on a 24 hour basis.

Part 6A also covers the use of port facilities by vessels, investigation of existing or proposed port facilities for use by vessels and removal of unauthorised works.

<sup>7</sup> Commercial vessel access to Commuter and Charter Wharves in Sydney Harbour and its tributaries is regulated under the Regulation.

<sup>8</sup> As at October 2021.

## FOR CONSIDERATION

5. Do you have any feedback on the management of wharves and moorings under the Act?
6. Do you have any feedback on the Act powers relating to port facilities?

### 2.6 Other issues

#### Legal proceedings, offences and penalties

The Act includes offences and penalties relating to compliance with directions and the management of wharves, moorings and port facilities. The Act outlines requirements and processes for issuing penalty notices and any court action (Part 8).

#### Miscellaneous

The Act covers port boundaries, liability of owners and masters of vessels, addressing obstructions or encroachments in waters, and cost recovery for enforcing compliance.

#### Schedules

Schedules 1, 2 and 5 in the Act cover the transfer of assets and staff from the former Maritime Services Board, which was previously implemented. Schedule 3 has been repealed.

Schedule 4 provides details of the regulatory powers to promote competition and productivity at ports (relevant to Act section 10B) – including the ability to apply information and reporting requirements, the setting of mandatory standards, provision of compliance incentives and penalties, and the regulation of supply chain charges.

During recent consultation on the remake of the Regulation stakeholders from different parts of the supply chain also made broader requests regarding access to information, including access to data provided by vessels, changes to the format in which data is provided, and access to data and information from other government agencies (Commonwealth and NSW).

## FOR CONSIDERATION

7. Are there any issues with access to relevant information? If so, what are the expected impacts of accessing additional information?
8. Do you have any suggestions to improve the Act to ensure it appropriately supports the management of NSW's ports and maritime operations?





INDEPENDENT REVIEW

Ports and Maritime Administration Act 1995  
& Port Botany Landside Improvement Strategy

# 3 Port Botany Landside Improvement Strategy



## 3 Port Botany Landside Improvement Strategy

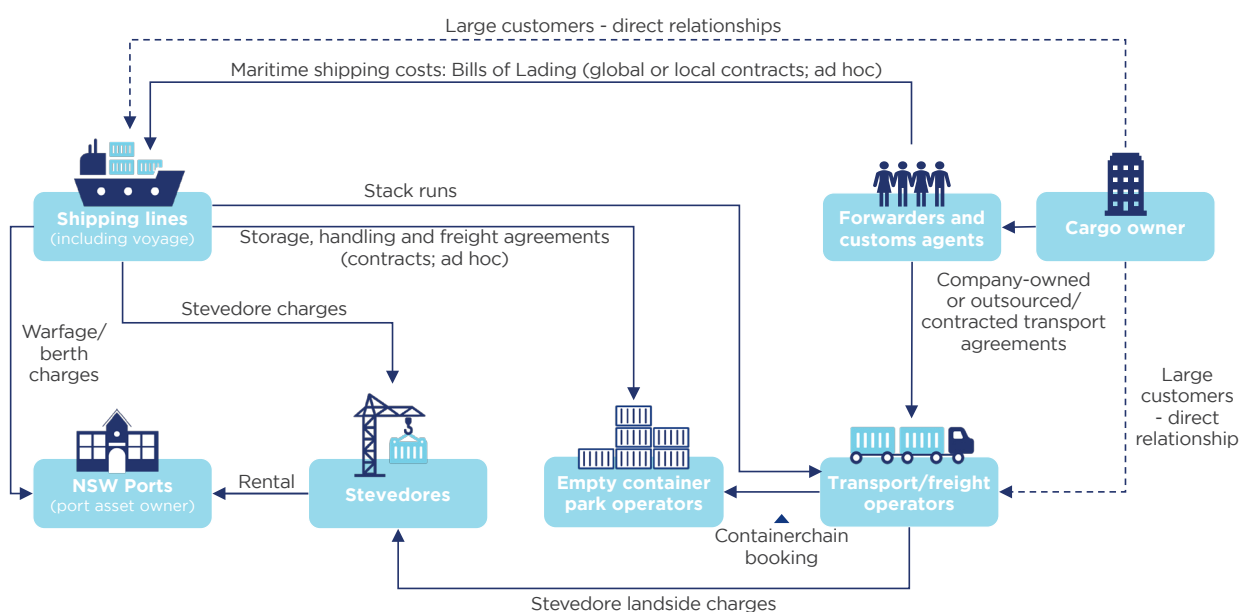
### 3.1 Overview of Port Botany container supply chain

Port Botany plays an important role in the NSW economy as a key gateway for international trade and contributes \$3.7 billion to NSW Gross State Product annually<sup>9</sup>.

In 2020/21 over 2.7 million TEUs passed through the port. Three container terminals handle this containerised freight and are privately operated by stevedores DP World Australia, Patrick Terminals and Hutchison Ports. The stevedores are tenants of the private port operator, NSW Ports (also the commercial manager of Port Kembla).

The Port Botany container supply chain includes multiple parties and requires high levels of coordination. Because it is an interconnected supply chain, disruptions in one part have potential flow on effects in other parts. Figure 2 shows the commercial relationships in the Port Botany supply chain and an overview of different parties in the supply chain is provided in the [Supplementary Paper](#).

**Figure 2: Port Botany supply chain**



### 3.2 What is the Port Botany Landside Improvement Strategy (PBLIS)?

In 2010 the NSW Government introduced PBLIS, which applies regulated operational performance standards to stevedores and road carriers at the container terminals in Port Botany, primarily via truck servicing arrangements based on mutual accountability of stevedores and truck operators. These servicing arrangements cover how time slots are made available to book, stevedore servicing timeframes (i.e. how long a truck should spend inside the stevedore terminal), slot booking and cancellation rules, minimum slot availability per day, road carrier ability to arrive on time and other requirements. These requirements are detailed in Part 6 of the Regulation and the supporting Mandatory Standards.

<sup>9</sup> NSW Ports 2021, Port Botany – Australia’s premier port, <https://www.nswports.com.au/port-botany>

The Act allows application of performance standards to ports and their related supply chains, to promote their economically efficient operation, including effective investments in infrastructure. PBLIS is a unique arrangement in Australia as other jurisdictions do not regulate vehicle or rail servicing at the port landside interface. Booking system models, including in international jurisdictions, will be explored during the review.

### **3.3 Why was PBLIS introduced?**

In the early 2000's, the freight industry raised concerns with the NSW Government about the efficiency of flows of containers into and out of Port Botany, and identified stevedore vehicle booking and rail access arrangements as barriers to greater efficiency<sup>10</sup>. The NSW Government referred these matters to the Independent Pricing and Regulatory Tribunal (IPART) to consider.

#### **IPART Review**

IPART set out to examine how road and rail transport operators interacted with stevedores at Port Botany, including services provided and fees charged, as well as the terms and conditions of access to the port. At this time, a vehicle booking system (VBS) had been in place for several years, and prior to this, trucks were serviced on a first come first served basis.

The final IPART Report "Reforming Port Botany's links with inland transport", released in March 2008, noted that while the freight logistics chain had dealt with growth in container volumes reasonably well, road transporters were still experiencing landside congestion at the port and inefficiencies with using the VBS at the stevedores' terminals<sup>11</sup>. The report made 18 recommendations, including:

- need for greater transparency in performance reporting and access arrangements –including improvements to communications and information sharing between port users
- an industry-based rail logistics team to improve rail performance, including through non-price incentives to overcome impediments to increased use of rail to transport containers
- price based allocation of truck slots (including an auction system) at the terminals
- performance standards for road and rail operations including clarification of terminal operating rules under the VBS that manages heavy vehicle access to the terminal
- penalties for not meeting slot requirements, linked to the cost of the delay
- measures to drive 24-hour seven-day-a-week operations at the port to reduce peak-hour congestion.

#### **NSW Government response**

The NSW Government responded to the IPART report by developing PBLIS which involved a two-phased approach. The first phase was industry-led improvements which included encouraging voluntary road and rail performance standards and reporting requirements.

Phase one did not result in significant improvements to efficiency and phase two was then implemented, with mandatory requirements introduced through regulations in 2010. These mandatory performance standards covered containers transported by

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<sup>10</sup> Freight Infrastructure Advisory Board 2005, [Railing Port Botany's Containers: Proposals to Ease Pressure on Sydney's Roads](#), Sydney, NSW, pp. 4-10.

<sup>11</sup> IPART 2008, [Reforming Port Botany's links with inland transport](#), Sydney, NSW, pp. 1-14.

road only, and a data direction was issued to stevedores to facilitate government oversight of the regulation and track performance of both the road and rail stevedore interfaces.

Other potential regulatory measures were flagged for consideration but not implemented. These included a Demand Management Scheme<sup>12</sup>, a review of empty container parks and regulation of rail performance standards<sup>13</sup>. Pricing for rail servicing was regulated in 2011, to encourage improved performance.

A historical timeline providing an overview of key events in relation to PBLIS is in the [Supplementary Paper](#).

## FOR CONSIDERATION

9. What has PBLIS achieved since introduction and what is it achieving now?
10. Are there inefficiencies in other parts of the port landside supply chain not under PBLIS? How would these be best addressed?

### 3.4 How does PBLIS apply to the Port Botany supply chain?

PBLIS applies to the landside interface between parties in the container supply chain in relation to their operations at or in connection with Port Botany. The arrangements are based on performance standards with penalties paid to the impacted industry party if they are not met.

Stakeholders have previously raised various issues with the current PBLIS requirements, including during the 2021 remake of the Regulation. This included requests to review 'detailed particulars' for unforeseen events, slot booking cancellations, truck turnaround times (TTT), minimum number of slots, penalties, stevedore impacted truck rules, gate procedures, rail pricing and container storage rules.

## FOR CONSIDERATION

11. What changes, if any, could improve the current PBLIS arrangements, whether in the Act, Regulation or Mandatory Standards? What are the expected impacts of those changes?
12. Are there any unintended impacts of PBLIS on the movement of goods through Port Botany? If so, how could these be addressed?

### Stevedores

PBLIS applies requirements for stevedore container slot bookings, gate procedures and associated operational performance measures. This includes rules for VBS such as specified TTT, truck servicing requirements and the cancellation of bookings and time zones.

A failure to comply with these standards can incur financial penalties payable by the stevedore to the affected road carrier. Stevedores are prohibited from introducing or increasing charges to recover costs of paying financial penalties under PBLIS. Stevedores are also subject to a regulated rail servicing charge and are required to collect, keep and provide truck and rail servicing records and data to TfNSW.

<sup>12</sup> The Demand Management Scheme was to incentivise 24/7 operations, in line with the IPART recommendation to introduce a Dutch auction method of slot bookings.

<sup>13</sup> This was only to be implemented if rail performance measures through voluntarily agreements with industry did not meet objectives.

## Road carriers

PBLIS requires road carriers to comply with gate procedures, booking cancellations, truck arrival times and truck identification information requirements.

Stevedores also require truck and trailer configuration details from road carriers to safely service the vehicle. Failure by road carriers to comply with these requirements will incur penalties under PBLIS.

## Empty container storage facilities

A recent amendment to the Regulation allows the Minister to require empty container storage facilities (also referred to as empty container parks) to provide operational data to TfNSW. This was introduced in response to stakeholder feedback, including through the Empty Container Working Group. A data direction has not been issued to date but this change to the Regulation provides potential to obtain consistent and complete data for visibility of this part of the supply chain.

### FOR CONSIDERATION

13. Are there any aspects of the application of PBLIS to stevedore operations that create inefficiencies in the landside supply chain? If so, how can these be improved?
14. Are there any aspects of the application of PBLIS to road transport operations that create issues in the landside supply chain? If so, how can these be addressed?

## 3.5 How is PBLIS administered?

The PBLIS Regulation is implemented by TfNSW. This includes oversight of requirements to ensure that all parties are adhering to the Regulation, for example:

- combining operational, VBS and truck movement data (collected through Automated Number Plate Recognition technology) to oversee TTT and truck arrival times
- using invoicing information to reconcile penalties and ensure compliance
- assessing Unforeseen Event requests by stevedores and transport operators
- assessing and approving Slot Reduction requests by stevedores
- ensuring that stevedore charges are not introduced or increased for recovering costs of paying financial penalties under PBLIS.

### FOR CONSIDERATION

15. Are there any aspects of the implementation of PBLIS that create issues in the supply chain? If so, how could the administration of PBLIS be improved?

## 3.6 Port landside performance under PBLIS

A number of performance measures show how PBLIS has performed over time and include key indicators such as TTT, booking efficiency measures and on time arrivals. Other port data (such as total container volumes) provide further information to inform the overall picture of port efficiency, including details of total container volumes. External factors such as Sydney traffic conditions and weather events can impact on landside performance (i.e. truck arrival and ship arrival delays).

Specific factors related to improved efficiency in port landside operations include shorter TTT, greater density of containers per truck (i.e. more than one container delivered per trip), on time truck arrivals and dual runs (delivering an export and picking up an import on one trip). Further explanations of these measures are below.

Economic analysis of PBLIS completed in 2016 estimated that road efficiency reforms at Port Botany will have delivered almost \$100 million in economic benefits



to importers, exporters, taxpayers and consumers by 2018<sup>14</sup>. An economic analysis of PBLIS performance to date (using data to the end of November 2021) will be completed to inform this review, and findings of the analysis will be publicly released in February 2022.

Key PBLIS performance measures since the implementation of the strategy are shown in the graphs below, using PBLIS data to November 2021. Port performance prior to PBLIS implementation can only be based on industry trials (refer to historical timeline in the [Supplementary Paper](#)) and data from the Bureau of Infrastructure and Transport Research Economics (BITRE).

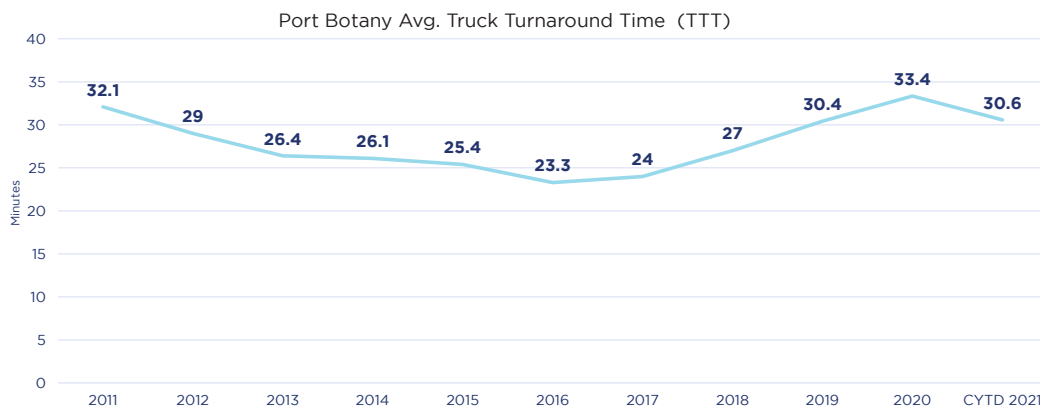
### Truck turnaround times (TTT)

The TTT is one of the main performance measures used to measure efficiency at the port. The Mandatory Standards set a regulated TTT for stevedores. A shorter time can indicate less congestion and delays in the port precinct.

The TTT commences at the stevedore’s entry gate and finishes once all containers have been serviced for the truck, which means they have been loaded or unloaded. It does not include the time used for trucks moving over ‘Weigh In Motion’ scales or the processing of paperwork. In the event there is a queue leading up to the stevedore’s entry gate, the TTT measure will start when the truck arrives in the queue, as measured by TfNSW Automatic Number Plate Recognition cameras. The Mandatory Standards allow additional time for vehicles carrying more than one container.

**Figure 3: Aggregated stevedore average truck turnaround time**

Source: Transport for NSW



### Stevedore service levels

Stevedore service level is a measure of the percentage of trucks that stevedores service within the specified time frame under PBLIS (the TTT). Figure 4 (p22) shows stevedore service levels over the past ten years. In 2020, disruptions were experienced at Port Botany which some stakeholders have attributed to a number of factors, including trade fluctuations as a result of COVID-19, flow-on effects of weather events and industrial relations issues.

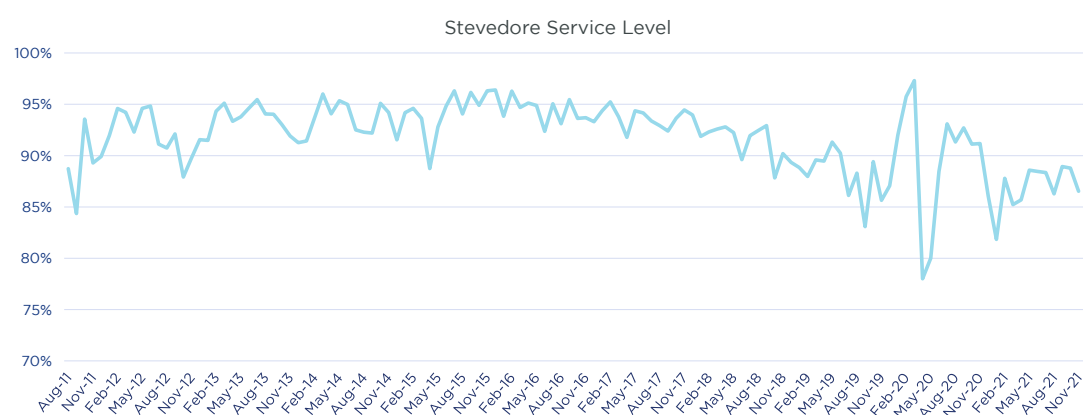
### Road carrier service levels

Figure 5 (p22) shows the service level for road carriers based on arrival at the terminal for the designated time zone with the appropriate truck configuration for the booked containers. Early or late arrivals including ‘no shows’ are recorded as a failure. There has been a relatively consistent level of service by carriers, with some drops in service around the end of 2018 and 2019. Road carriers have indicated that traffic congestion, empty container park performance levels and stevedore delays impact their service levels.

<sup>14</sup> TfNSW – Road Carriers and Stevedores Servicing Port Botany are [Subject to Mandatory Performance Standards - Impact of mandatory standards](#)

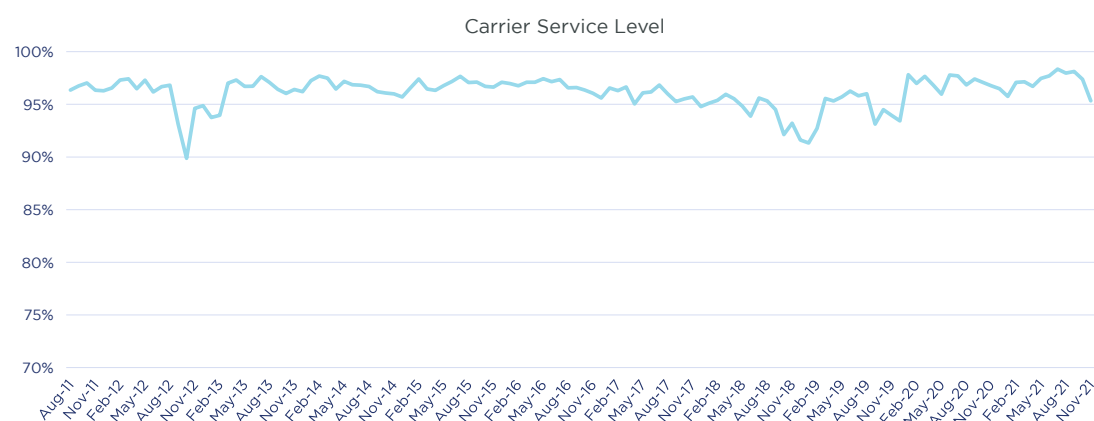
**Figure 4: Monthly stevedore servicing levels**

Source: Transport for NSW



**Figure 5: Monthly carrier servicing levels**

Source: Transport for NSW



### Throughput volumes

Container throughput volumes at Port Botany have been steadily increasing as shown on Figure 6 (p23). This increase in container volumes is occurring at the same time as the size of the vessels calling at Port Botany has increased. Larger vessels with more containers (such as New Panamax and Post Panamax vessels) mean that there are larger container exchanges at the terminals.

Stevedores advise that this has created operational surges, which leads to difficulties in effectively allocating equipment and labour between the quayside (unloading and loading the vessel) and the landside (loading and unloading road and rail).

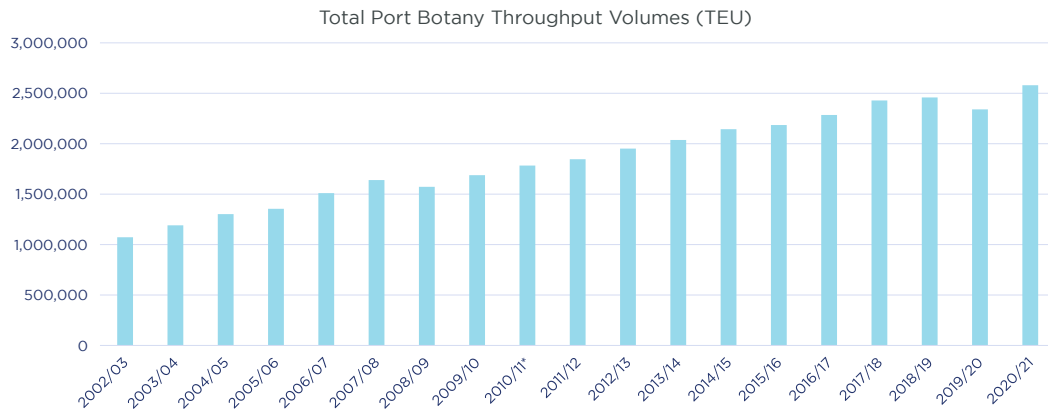
### Container density

Another indicator of performance at Port Botany is container density. This is a measure of how many containers are being serviced on each truck per trip to the stevedore. The higher the density, the fewer truck trips required to complete the container task at the port, which means a reduction in trucks on the road.

Figure 7 (p23) shows that truck density has remained fairly consistent since 2014, noting there was a significant drop in container density at the start of the COVID-19 pandemic in early 2020. The pick-up in density coincided with approval for performance based standards trucks that can carry two 40 foot containers, however density has since dropped to previous levels.

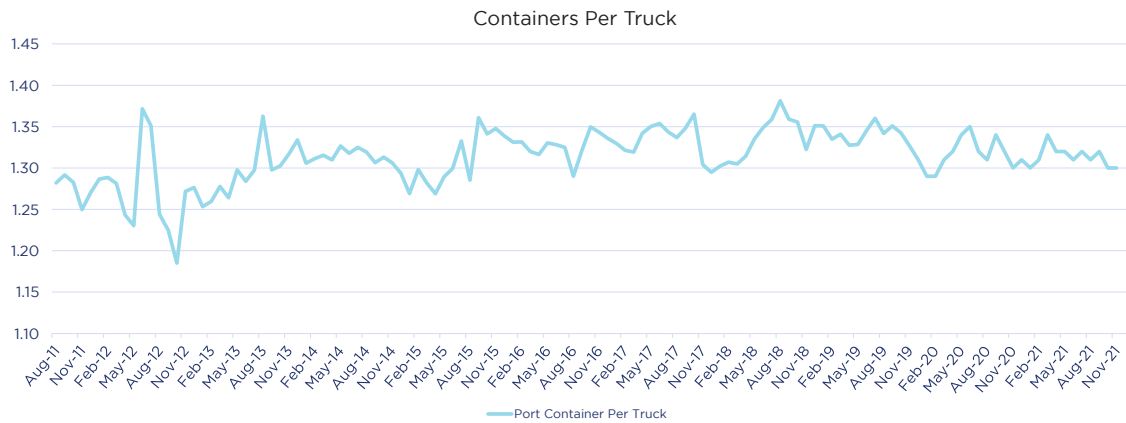
**Figure 6: Port Botany throughput volumes**

Source: Transport for NSW



**Figure 7: Container density per truck**

Source: Transport for NSW

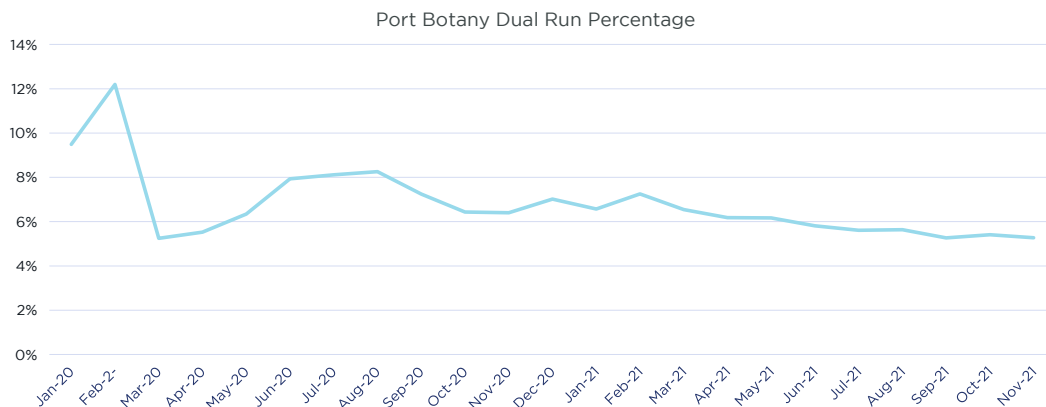


**Dual runs**

Dual runs are where a truck drops off one or more containers for export, and then picks up one or more import containers. When import and export containers are serviced on a single truck, this means that fewer truck trips are required to service the same amount of containers. Dual runs can assist more efficient operations by the stevedores, as additional containers serviced on each truck takes less time than to service the containers over different trucks. Figure 8 shows the percentage of trucks doing dual runs at Port Botany over the past year (note this information is not available for previous years as a different system was used at the time).

**Figure 8: Dual runs at Port Botany**

Source: Transport for NSW

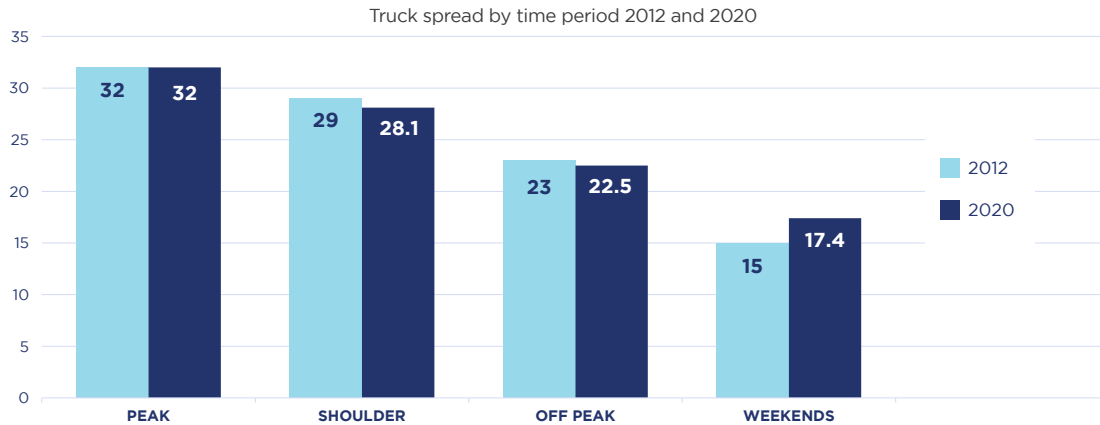


## Truck spread

Truck spread measures the percentage of containers that are serviced within defined time periods throughout the week. Prior to PBLIS, peak and shoulder timezones made up approximately 75 percent of all containers serviced, which has since reduced to around 60 percent. As Figure 9 shows, weekend work rates have increased from 15 to over 17 percent.

**Figure 9: Truck spread at Port Botany**

Source: Transport for NSW



## PBLIS penalties

The PBLIS Mandatory Standards are enforced through penalties. For example, stevedores pay penalties to road transport operators for failure to comply with the performance standards (e.g. TTT exceeding prescribed time). Road operators pay penalties to the stevedores for failure to comply with the relevant performance standards (e.g. arriving outside of prescribed booking window).

The penalties are applied through a process of TfNSW's Cargo Efficiency Operational System receiving stevedore booking and truck servicing data, combining this data with TfNSW's independent truck tracking at the port and calculating the penalties that should be applied under PBLIS.

Figure 10 (p25) shows an overview of invoices paid and received by stevedores, for penalties incurred for not adhering to the Mandatory Standards, over the last 10 years. The light blue bar shows how much stevedores have received from road transporters; the blue bar is how much stevedores have paid out to road transporters; and navy is the net balance for stevedores.

A navy bar that falls below the line shows that the stevedore has received more in penalties than they have paid out. In the last two years, the navy bar remains above the line as overall stevedores have paid out more penalties than received.

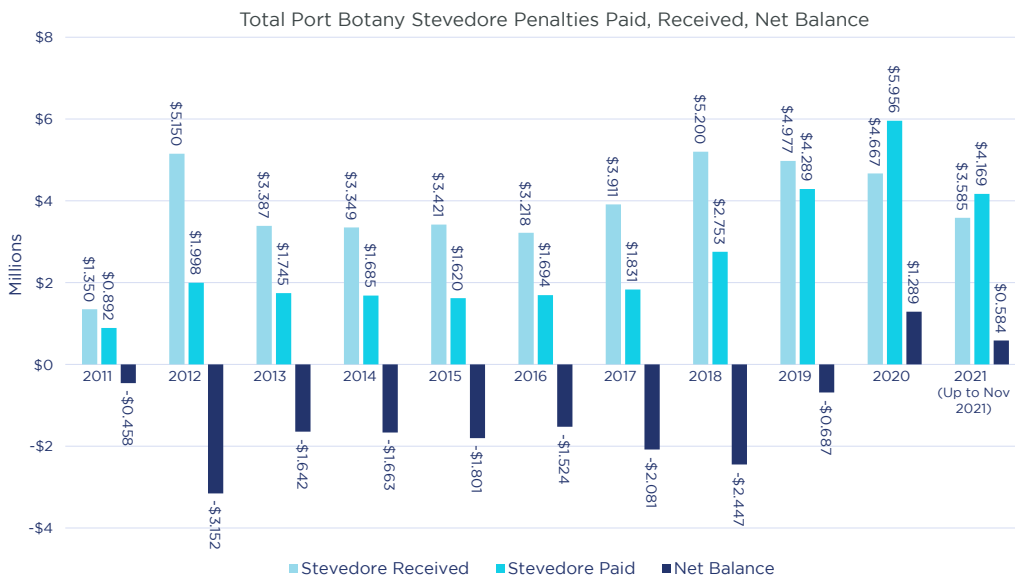
## Rail mode share

IPART recommended investments in options to encourage increased use of rail as a freight mode, to enhance efficiency and reduce road congestion at Port Botany.

Figure 11 (p25) shows the overall container volumes transported per year, and the percentage of those containers transported by rail compared to road, which is known as the rail mode share. Rail container volumes and mode share increased in 2017 to almost 20 percent mode share and since then, both rail volumes and rail mode share have decreased.

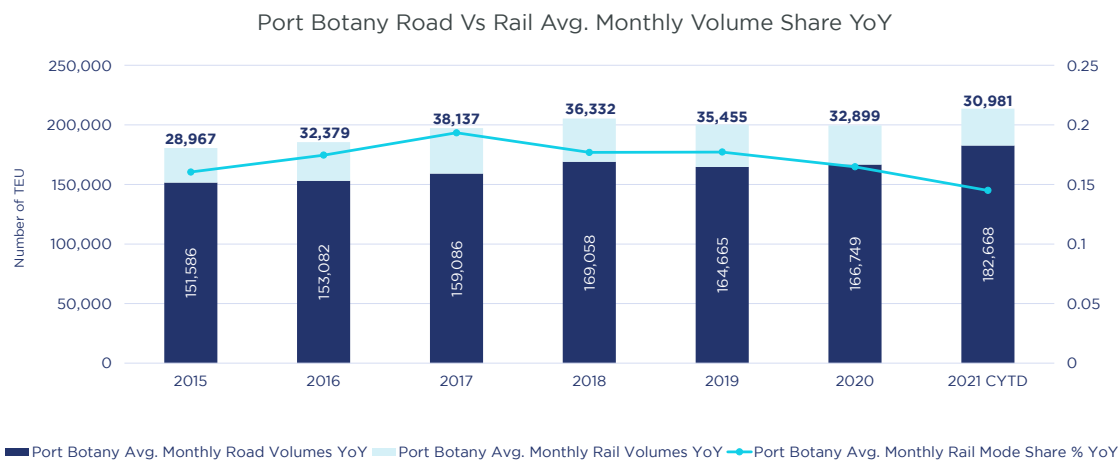
**Figure 10: PBLIS penalties - paid, received and net balance**

Source: Transport for NSW



**Figure 11: Port Botany mode share**

Source: Transport for NSW and NSW Ports



### 3.7 Port Botany future growth and requirements

Port Botany plays a major role in NSW’s economy as a gateway for international trade and is the State’s primary container, bulk liquid and gas port. Port Botany currently handles 99.6 percent of containers for NSW, 100 percent of bitumen and 98 percent of Liquid Petroleum Gas. 42 percent of all goods in an average Sydney household are imported in containers via Port Botany<sup>15</sup>.

Port Botany handled 2.7 million TEU in 2020-21 and NSW Government forecasts estimate it will handle over 7.3 million TEUs annually by 2056. The port can also handle larger vessels, as its infrastructure is able to service vessels carrying over 15,000 TEUs. While most container vessels currently calling at Australia are around 5,000 – 6,000 TEUs, container vessel sizes are increasing due to the continued increase in the international container freight task and the consolidation of freight by shipping lines to achieve economies of scale.

An efficient, competitive and sustainable containerised supply chain is necessary to realise the full operational capacity at Port Botany and to meet the growing freight task in NSW.

<sup>15</sup> NSW Ports 2021, Port Botany – Australia’s premier port, <https://www.nswports.com.au/port-botany>

## FOR CONSIDERATION

16. Does PBLIS remain the best approach for promoting the efficient and productive operation of the landside interface at Port Botany into the future? Are there ways that PBLIS could be improved?

### **Australian Competition and Consumer Commission (ACCC) container stevedoring monitoring**

The ACCC monitors the process, costs and profits of container terminal operators at the ports of Adelaide, Brisbane, Burnie, Fremantle, Melbourne and Sydney, under Part VIIA of the Competition and Consumer Act 2010 (Commonwealth). The ACCC reports annually on this monitoring.

In the Container Stevedoring Monitoring Report 2020/21 the ACCC notes the following key industry insights and developments<sup>16</sup>:

- COVID-19 destabilised the global container freight supply chain, leading to delayed shipments and rapidly rising freight rates.
- Dynamics in the container industry changed significantly over the past decade due to a number of issues, and while some of these will resolve themselves over time, others require further action.
- Productivity has stagnated, and Australian container ports are relatively inefficient.
- Increased industrial actions and restrictive work practices have caused ongoing disruptions and contributed to the relatively poor performance of Australian ports.
- Enhanced competition between stevedores has led to reduced profits and increased investments in equipment and infrastructure.
- Consolidation of shipping lines has increased their bargaining power and larger vessels have adversely impacted on the productivity of ports as they require further investment.
- While privatisation of Australia's four major container ports improved dynamism, they are currently under-regulated.

The ACCC stated that:

*“There is also potential to achieve greater efficiencies by better integrating rail into the supply chain. Rail is considered to be a more reliable and efficient way to transport large volume of cargo, compared to trucks.... Ports and stevedores in Melbourne and Sydney are making substantial investments to improve access of rail to their respective ports and increase rail market share<sup>17</sup>”.*

*“Currently, most freight is carried by trucks. Over the past decade, on average, only around 10% to 12% of the containers entering or leaving the Australian container ports were transported by rail. If the split between market share of rail and trucks continues into 2030, this may double the number of trucks required. This could lead to more congestion on metropolitan roads. There is potential to better integrate rail into the supply chain, to increase its market share to a more sustainable mode split.<sup>18</sup>”*

The ACCC also noted that Australia has a higher imbalance between imports and exports compared to many overseas markets and that dedicated empty container parks play a greater role in Australia compared to many international ports. While noting longer-term issues related to empty container storage capacity, the ACCC stated that additional empty container park capacity and reconsideration of empty container management may be required to handle increased volumes of containers<sup>19</sup>.

<sup>16</sup> ACCC 2021, [Container stevedoring monitoring report 2020–21, Canberra](#), ACT, p. viii.

<sup>17</sup> ACCC 2021, [Container stevedoring monitoring report 2020–21, Canberra](#), ACT, p. xxii.

<sup>18</sup> Ibid p. 71.

<sup>19</sup> Ibid p. 29 & 32.

# Appendix 1: List of questions for consideration

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**Question 1:** Do you have any feedback on the marine safety functions under the Act?

**Question 2:** Do you have any feedback on the provisions of the Act in relation to the Maritime Advisory Council or the Waterways Fund?

**Question 3:** Do you have any feedback on the Port Authority or private port operator provisions in the Act?

**Question 4:** Do you have any comments on the Act coverage of port charges and the port price monitoring scheme?

**Question 5:** Do you have any feedback on the management of wharves and moorings under the Act?

**Question 6:** Do you have any feedback on the Act powers relating to port facilities?

**Question 7:** Are there any issues with access to relevant information? If so, what are the expected impacts of accessing additional information?

**Question 8:** Do you have any suggestions to improve the Act to ensure it appropriately supports the management of NSW's ports and maritime operations?

**Question 9:** What has PBLIS achieved since introduction and what is it achieving now?

**Question 10:** Are there inefficiencies in other parts of the port landside supply chain not under PBLIS? How would these be best addressed?

**Question 11:** What changes, if any, could improve the current PBLIS arrangements, whether in the Act, Regulation or Mandatory Standards? What are the expected impacts of those changes?

**Question 12:** Are there any unintended impacts of PBLIS on the movement of goods through Port Botany? If so, how could these be addressed?

**Question 13:** Are there any aspects of the application of PBLIS to stevedore operations that create inefficiencies in the landside supply chain? If so, how can these be improved?

**Question 14:** Are there any aspects of the application of PBLIS to road transport operations that create issues in the landside supply chain? If so, how can these be addressed?

**Question 15:** Are there any aspects of the implementation of PBLIS that create issues in the supply chain? If so, how could the administration of PBLIS be improved?

**Question 16:** Does PBLIS remain the best approach for promoting the efficient and productive operation of the landside interface at Port Botany into the future? Are there ways that PBLIS could be improved?