INDEPENDENT REVIEW

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

Options Paper

transport.nsw.gov.au

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Contents

From the Independent Reviewer Ed Willett

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).

Following extensive engagement with stakeholders on the Review Discussion Paper earlier this year, I am now able to share the Review Options Paper which outlines options for updates to the Act and PBLIS. These options have been carefully informed by stakeholder input, external research and detailed analysis. They reflect the value and importance of this legislative framework for maintaining a safe and effective ports and maritime environment, as well as opportunities to improve efficiencies at our ports.

The Review heard no compelling argument for broad changes to the scope and purpose of the Act, nor found any reasons to propose broad changes. Instead, a number of options for improving parts of the Act and its application are proposed and are designed to support safety, efficiency and effective governance arrangements for our maritime environment and ports.

Given the importance of Port Botany as a nationally significant trade gateway and NSW's primary container port, it is essential to ensure we have appropriate regulatory frameworks in place to support the increasing freight challenge now and into the future. PBLIS was implemented 12 years ago to address serious congestion problems driven by poor landside performance. By penalising poor performance, PBLIS provided incentives for both stevedores and road operators to improve. PBLIS has been effective in dealing with most of these deficiencies.

However, much has changed since the introduction of PBLIS. There are now three stevedores at Port Botany, container throughput has grown substantially and relevant information technologies have developed. In this context, the Review of PBLIS has found while it is likely that without PBLIS in the future some of the original problems would re-emerge, the extent of these likely problems, and the extent to which they might self-correct, is not clear. Meanwhile, PBLIS is imposing significant costs and probably impeding some market solutions. Consequently, retaining an inflexible and intrusive intervention as designed currently may not be the best approach to manage the port landside interface into the future.

The ideal future outcome would be for industry to take responsibility for the port landside interface without the need for government regulation. At this time however, it is not envisioned that removing the PBLIS regulation wholly would be a suitable approach, and a range of options for more or less government involvement are canvassed for stakeholder feedback.

I appreciate that some stakeholders will be concerned by any suggestion that PBLIS should be substantially changed. Stakeholders have invested a great deal in the existing arrangements and change, in and of itself, imposes costs. I do not consider that any substantive changes should be made overnight and stakeholders should be provided adequate time to adjust.

I believe that landside operations at Port Botany and relationships between stakeholders can work better than they currently do. I am keen to explore ways in which that can happen.

It has been hugely beneficial to meet with, and hear from, a broad range of stakeholders throughout the review to date. I thank everyone who has participated in engagement opportunities, provided feedback on the Discussion Paper and hosted me on site visits. The ongoing commitment from stakeholders across the industry to inform the process has ensured the development of a range of options for improving landside operations into the future.

I welcome your ongoing feedback to consider and refine the options and inform my final recommendations to government.

Sincerely,

Ed Willett
Independent Reviewer

Glossary

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 - The *Ports and Maritime Administration Act 1995*

ANPR - Automatic Number Plate Recognition: technology used in camera technology at the port to track truck movements.

ARTC - Australian Rail Track Corporation

ASC - Automatic Stacking Cranes

CBA - Cost Benefit Analysis

Container density: a measure of how many containers are being serviced on each truck per trip to the stevedore terminal.

Differential Pricing: an approach where prices for the same product or service are different based on factors that drive demand such as time of purchase or use.

Duel 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.

ECIS - Empty Container Incentive Scheme

ECPs - Empty container parks: provide storage facilities for empty containers before they are either provided to exporters to pack with goods for export or exported overseas as empty containers.

ECWG - Empty Container Working Group: TfNSW facilitated and includes representatives from shipping lines, stevedores, empty container park operators, road transport operators and key freight industry groups.

EDI - Electronic Data Interchange

EIDO - Electronic Import Delivery Order

FCS - Freight Community System: enables freight network supply chain businesses to rapidly and securely exchange information with other businesses through a common interface.

GPS - Global Positioning System

IMT - Intermodal terminal: a facility which allows for the exchange of containers between rail and road.

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

L/D ratio - Load/Discharge ratio: measure, per shipping line, of the total number of full or empty TEU loaded at Port Botany divided by the total number of full or empty TEU unloaded at Port Botany.

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

MAC - Maritime Advisory Council: provides 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.

MFN - Metropolitan Freight Network

Minister: NSW Minister for Transport and the Minister for Regional Transport and Roads jointly administer the Act and are referred to collectively.

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

PBLIS - Port Botany Landside Improvement Strategy

PCS - Port Community System: provides a platform for communication between port stakeholders.

PIN - Penalty Infringement Notice

Port Authority: Newcastle Port Corporation (trading as the **Port Authority of New South Wales**) is a statutory state-owned corporation.

PSOL - Port Safety Operating Licence: issued to the Port Authority by the Minister under the Act.

PTLT - Port, Transport, Logistics Taskforce: the TfNSW facilitated industry consultative forum. Participation is open to businesses or business associations with a significant presence or interest in the operation of Port Botany. These include the Container Terminal Stevedores, Empty Container Park operators, Rail Operators, Road Freight NSW, Road Transport companies, Freight Forwarding and Customs Broker peak bodies, and the provider of the Vehicle Booking System.

Rail window: the period of time allocated for a stevedore to service a container train at their terminal.

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

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

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

Stevedores impacted truck: truck affected by the failure of a stevedore to service the truck within the TTT.

TEU - Twenty-foot Equivalent Unit: 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 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: when PBLIS rules cannot be met for unexpected reasons. There are certain criteria for assessing these events within the Mandatory Standards.

VBS - Vehicle Booking System: 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.

VICT - Victoria International Container Terminal

VTS - Vessel Traffic Service

Executive summary

The NSW Government is actively addressing the State's growing freight demands and ensuring regulatory frameworks continue to support safe, productive, sustainable and resilient ports and maritime operations, now and into the future. In November 2021, the NSW Government appointed Independent Reviewer, Mr Ed Willett, to lead a comprehensive review of the *Ports and Maritime Administration Act 1995* and the Port Botany Landside Improvement Strategy.

The Review Discussion Paper was released in December 2021 to consider the relevance and application of the frameworks in the current ports and maritime environment and identify opportunities for improvement and the impacts of any potential changes.

During an extended engagement period, Mr Willett, supported by Transport for NSW (TfNSW), met with industry stakeholders, visited port and transport sites and considered 26 written submissions. This engagement supported the development of options to improve the regulatory frameworks that are outlined in this Options Paper.

The review of the Act considered stakeholder feedback on the Discussion Paper and found that while the policy objectives remain valid, there are opportunities to improve the Act. These changes aim to support the delivery of the Act objectives and ensure the legislation remains fit for purpose for the current and expected future ports and maritime environment. The review has not found a need for broad changes to the focus and scope of the Act.

Fifteen options are proposed to modernise and streamline the Act, and clarify functions, to improve safety in ports and wharves, improve visibility of the supply chain and address other issues raised during consultation with stakeholders. These options are detailed in Chapter 2 of the Options Paper.

The review of PBLIS assessed the effectiveness and achievements of the strategy to date and whether it remains the best approach. Importantly, the review considered the broader supply chain operating environment, the expected future port operating environment and whether there have been any direct or indirect costs or savings resulting from PBLIS, or any unintended adverse impacts on the supply chain.

The increased demands on the stevedores from growing container volumes and competitive pressures have also provided the incentive to perform efficiently on the landside (in addition to PBLIS). The issues PBLIS was implemented to address have however not been eliminated entirely, as when pressures arise, stevedores preference servicing the quayside over the landside. It is difficult to evaluate the size of the problem that remains. The review has therefore considered a range of options, detailed in Chapter 3 of the Options Paper, for how to best manage the landside interface into the future.

Options included have been selected for their ability to support or contribute to overall port efficiency, streamline or modernise arrangements and reduce administrative complexity and/or burden. Consideration has also been given to the level of government market intervention and the ability of government or industry to implement the options. The Review does not propose complete removal of PBLIS.

Four sets of options containing 23 individual options are outlined in the Options Paper for further consideration. A preferred option is not provided, instead further stakeholder feedback is sought to inform the Independent Reviewer's final recommendations. The sets of options are not mutually exclusive and the final recommendations may include options from across the four sets:

- **Option A** - Retain the PBLIS regulation applying to truck servicing arrangements at Port Botany and make some changes to support port efficiency and improve its function. This set of options are designed to support port efficiency, address stakeholder issues, modernise requirements, improve flexibility and reduce administrative burden.
- **Option B** – Make changes to the PBLIS arrangements that are considered broader in scope or potentially more extensive changes to the current approach. This set of options also considers other parts of the port supply chain that PBLIS currently does not regulate to the same extent as truck servicing such as empty container parks and data, and asks how these options might be implemented, either voluntarily by industry or via government regulation.
- **Option C** - Transition away from regulated PBLIS arrangements to non-regulated arrangements but implement ongoing performance monitoring and retain the potential to reintroduce regulation if required. While other container terminals in Australia operate without regulation of the landside interface, given the prior poor landside performance at Port Botany and to provide confidence that efficient performance standards would be maintained, a non-regulatory approach would retain the ability to re-regulate.
- **Option D** – Covers rail at Port Botany and includes future considerations of rail requirements in the context of the overall rail network, and considers that with the range of significant investments and initiatives currently underway at both the port and on the broader network, a government intervention (like PBLIS) at this time is not required.

Feedback on the Options Paper will inform the Independent Reviewer's Final Report which will make recommendations to the NSW Government later this year. A complete list of options for the Act and PBLIS is at Chapter 4.

INDEPENDENT REVIEW

Ports and Maritime Administration Act 1995
Port Botany Landside Improvement Strategy

1 Introduction

1 Introduction

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 led by Mr. Ed Willett, the Independent Reviewer, and supported by Transport for NSW (TfNSW).

The review is guided by the NSW Government Better Regulation Principles and evidence-based research and analysis, including independent external inputs and detailed engagement with stakeholders.

As part of the consultation process, a Discussion Paper was released in December 2021 followed by a series of consultation meetings with stakeholders in early 2022. A total of 26 written submissions were received.

Three independent studies were commissioned on different aspects of PBLIS to inform the options outlined in this Options Paper. These include a Cost Benefit Analysis (CBA), the Advisian international and national comparison of port landside interfaces (Advisian Report) and the Deloitte Access Economics PBLIS industry behavioural research (Deloitte Report). These studies are available on the Review website and summarised in Appendix 3.

Parts of the Regulation not related to PBLIS were recently reviewed by TfNSW, with changes effective 1 September 2021. While these provisions have largely not been revisited, the Review has considered feedback provided during the Regulation review process that was deferred for consideration as part of a broader review. Some issues with non-PBLIS parts of the Regulation were also raised during consultation on the Discussion Paper, which have been considered where appropriate.

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. Options for amendments to the Act are outlined in 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.

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). PBLIS options for consideration are outlined in Chapter 3. For the PBLIS component, an evaluation of the impact of the initiatives undertaken to date forms the initial basis of the Review.

Out of Scope

As outlined in the Discussion Paper, some matters are out of scope of the Review.

Long-term lease arrangements applying to Port Botany, Port Kembla and the Port of Newcastle will only be considered within the context of those existing lease arrangements.

Recognising that the matter of stevedore charges is a national economic issue, this has been referred for consideration by the Australian Government. As such, specific consideration of stevedore charges, beyond current references in relation to PBLIS penalties, will be out of scope for the Review.

1.2 Review process

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

12 November 2021 Review announced

16 December 2021 Discussion Paper released

16 December 2021 to 4 March 2022 Public consultation on Discussion Paper

February to 4 March 2022 Stakeholder consultation meetings and site visits. Refer to Appendix 1 for a summary of stakeholder feedback received and Appendix 2 for a list of stakeholder written submissions

21 February 2022 Supporting analysis released - Cost Benefit Analysis

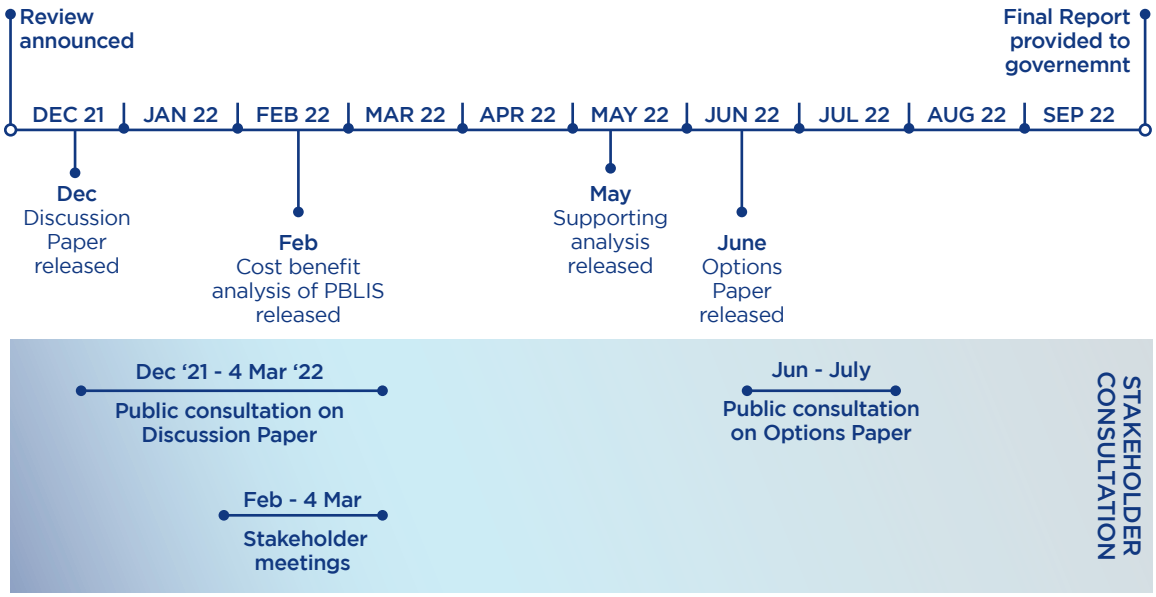
25 May 2022 Supporting analysis released – Advisian Report and Deloitte Report

16 June 2022 Options Paper released

16 June to 29 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 options for changes to the Act and PBLIS outlined in this paper. Comments and suggestions can be provided in response to the options outlined, and/or on individual matters or on the Act or PBLIS as a whole. Preferred options are not outlined in the Options Paper, instead further stakeholder feedback is sought to inform the Final Report recommendations.

Public consultation on this Options Paper is open until 29 July 2022.

Submissions can be made:

Online: yoursay.transport.nsw.gov.au/hub-page/pamareview

By email: Freight@transport.nsw.gov.au

By post: Review of the *Ports and Maritime Administration Act 1995* and the Port Botany Landside Improvement Strategy
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 phone 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 submissions?

The proposed changes are detailed in the Options Paper and stakeholders have the opportunity to provide feedback on these as part 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 by law to release the content of your submission, including under the *Government Information (Public Access) Act 2009*.

INDEPENDENT REVIEW

Ports and Maritime Administration Act 1995
Port Botany Landside Improvement Strategy

2 Ports and Maritime Administration Act 1995

2 Ports and Maritime Administration Act 1995

The review of the Act considered stakeholder feedback on the Discussion Paper and found that while the policy objectives remain valid, there are opportunities to improve the Act. These changes aim to support the delivery of the Act objectives and ensure the legislation remains fit for purpose for the current and expected future ports and maritime environment. The review has not found a need for broad changes to the focus and scope of the Act.

Fifteen options are proposed to modernise and streamline the Act, and clarify functions, to improve safety in ports and wharves, improve visibility of the supply chain and address other issues raised during consultation with stakeholders.

OPTION	TITLE
1	Replace the current three tier dangerous goods in ports time-limit penalty structure with an ongoing daily offence penalty.
2	Remove the reference to identification numbers issued under the National Law as a condition of holding a mooring licence.
3	Regulate the licensing of towage services, lines handling and bunkering services by the Port Authority under a new statutory regime.
4	Consider extending the requirement to obtain written approval for carrying out bunkering or specified work to other relevant vessels, including those not carrying dangerous goods.
5	Introduce a criminal offence and penalty notice amount (PIN) for breaching private port operator directions.
6	Amend the port operator direction notification period to one week.
7	Extend liability for non-compliance with parking rules to the owner of the vehicle.
8	Allow for variations in port charges in relation to the environmental performance of a vessel.
9	Increase the port charges notification period to the Minister to at least 40 business days before the change.
10	Review application of current port boundaries and update if required.
11	Require the provision of vessel performance information to relevant port authorities.
12	Mandate information and data formats and types for vessel manifests and that these be provided to the NSW Government.
13	Clarify key functions of Transport for NSW, which include keeping waterways free of debris and the maintenance of additional waterway infrastructure.
14	Expand the functions of the Maritime Advisory Council to include advice and recommendations on property and infrastructure, to align with the expertise required of the MAC members and the functions of TfNSW.
15	Amend the Act to streamline and simplify requirements where suitable.

2.1 Safety

2.1.1 Dangerous goods time limit penalty

Dangerous goods can pose significant risks to port facilities and their management is regulated to ensure they are handled and stored safely. Port facility time limits for dangerous goods are applied from the time the goods enter the port facility (for import or export) to when they are transported out of the port. Both the cargo owners and stevedores are responsible for ensuring dangerous goods are not kept at the port facility beyond the time limits and stevedores are also required to appropriately store and handle the dangerous goods while at the port, ensuring that the total concentration of dangerous goods in the terminal does not exceed set limits.

Section 101 of the Regulation specifies the different time limits based on the category of dangerous good. The port facility time limits are:

- Two hours for certain explosives and radioactive goods,
- 12 hours for containers packed with more than 500 kilograms of prescribed dangerous goods (such as flammable or toxic gases), certain explosives, low specific activity materials and restricted chemicals,
- 120 hours for other kinds of dangerous goods.

Currently penalties can apply to the dangerous goods cargo owner or the port facility operator if time limits are exceeded by less than 48 hours, between 48 and less than 96 hours, or 96 hours or more.

Some dangerous goods containers have overstayed port facility time limits beyond the 96 hours (four days). Given the potential risks these goods pose and to maintain appropriate management of dangerous goods in ports, it is proposed to replace the current three-tier penalty structure with a daily penalty offence that applies to each day that dangerous goods are left at a port facility past the relevant time limit. It is also appropriate that the penalty amount be reviewed to ensure it remains current and suitably proportionate to the risks it is designed to address. This will ensure there is an effective incentive to comply with dangerous goods time limit requirements and that dangerous goods are appropriately removed from port facilities.

Act Option 1: Replace the current three tier dangerous goods in ports time-limit penalty structure with an ongoing daily offence penalty.

2.1.2 Mooring licences

Only holders of a mooring licence (private or commercial), issued by TfNSW, are permitted to moor their vessel in NSW. Mooring licences are subject to certain prescribed conditions and may be varied, suspended, cancelled or transferred.

Under section 29 of the Regulation, one of the conditions of holding a mooring licence in NSW is that a vessel occupying a mooring must be registered under the *Marine Safety Act 1998* or have a certificate of operation or identification number issued under the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (Cth) (the National Law)). A vessel identification number can be automatically issued when a person applies for a certificate of survey, non-survey approval, C Restricted approval, a specific exemption or indicate an intent to build a vessel. Alternatively, a person can make a standalone application for an identification number.

Obtaining an identification number may not by itself provide assurance that the vessel is in good condition. Vessels moored in poor condition pose risks to maritime safety and the environment.

Removing the reference to identification numbers issued under the National Law would ensure robust requirements and standards are in place as a condition of obtaining a mooring licence.

Act Option 2: Remove the reference to identification numbers issued under the National Law as a condition of holding a mooring licence.

2.1.3 Towage, lines handling and bunkering services

The safe and efficient provision of towage, lines handling and bunkering services are essential for port operations. The Port Authority has advised that regulating a licence scheme for these services would support safe port operations by setting clear standards and performance indicators.

Towage

Towage services refers to the use of tugboats to help move or position other vessels, usually during entry to or exit from a port or berth, which is a critical safety function at ports.

The Port Authority currently administers a towage licence system for the ports of Sydney Harbour, Botany Bay and Port Kembla under its Port Safety Operating Licence (PSOL). As directed by the Harbour Master, vessels requiring towage services must utilise towage providers who have been issued with a towage licence from the Port Authority (under its non-exclusive licence arrangement).

To promote the safe and efficient provision of these critical port services, it is proposed that a statutory licensing regime is introduced under the Act. Replacing the existing licensing regime, administered under the PSOL with a statutory licensing regime, provides greater clarity for users and strengthens enforcement of these requirements and standards to ensure they are provided safely and efficiently.

In May 2022, the Victorian Government passed the Transport Legislation Amendment (Port Reforms and Other Matters) Act 2022 (Vic), which makes it a requirement to have a licence to provide towage services under the *Port Management Act 1995* (Vic) and outlining the licensing regime for this purpose.

The new statutory licensing regime will continue to set out the key safety conditions and efficiency outcomes, standards in relation to operational requirements and reporting against key performance indicators in relation to operational and environmental safety and service delivery. Details of towage licences are available on the Port Authority website Marine governance | Port Authority New South Wales (portauthoritynsw.com.au)).

Lines handling

Port users, including terminals and shipping lines, access a lines handling service to ensure the safe mooring and unmooring of a vessel from wharf infrastructure. This mooring operation is a critical part of a successful vessel port call and is currently unregulated.

Applying a licensing requirement, in the same model as the proposed towage licence, provides the Port Authority with the ability to require minimum service capability and safety performance to support port safety and efficiency outcomes. The licence could include standards such as requiring providers to maintain an adequate safety management system that is subject to periodic audits, reporting of all incidents when servicing a vessel and to advise of the outcome of safety investigations.

Bunkering

Bunkering is the act of refuelling ships. There is currently a number of bunkering service providers in Sydney Harbour, Port Botany and Port of Newcastle. While the Port Authority approves bunkering permits through its Vessel Traffic Service, there is a lack of information on where bunkering operations are taking place and the quality of bunker service provision.

A licensing requirement would provide a formal requirement for consistent provision of information by bunkering providers on their operational standards. The Port Authority would be able to specify and monitor minimum standards for emergency response arrangements during bunker transfer operations, and have oversight of the service providers insurance coverage, which should be based on the level of service being provided.

A licence arrangement for bunkering services could set performance indicators around safety and environmental performance. This may include minimum requirements in relation to service delivery equipment such as hose testing requirements and

adherence to applicable Australian standards and guidelines, as well as agreements on operating parameters to ensure safe operations.

Stakeholder feedback

Stakeholders recommended the regulation of lines handling and towage service providers. Lines handling operations were noted as being critical for the prevention of property damage, pollution incidents and personal injury, and to overall port productivity. The regulation of towage licensing was recommended to include penalties for non-compliance and specific standards for matters such as service continuity, stakeholder consultation, safety and environmental impacts.

Act Option 3: Regulate the licensing of towage services, lines handling and bunkering services by the Port Authority under a new statutory regime.

2.1.4 Permit requirements for bunkering and other works

Under section 81 of the Regulation, a master of a ship that is carrying dangerous goods must not carry out certain work or bunkering (re-fuelling) on the ship while it is in the waters or berthed at a port facility, without the written approval of the relevant port authority. A master of a ship must also ensure that the work or bunkering complies with the conditions of that written approval.

This ensures that work and bunkering is undertaken safely. The current specified works are hot work on the ship, work that immobilises the ship, freeing gas from the ship's tanks, cleaning or painting the ship's hull, polishing or cleaning the ship's propeller, underwater inspections of the ship, and running a radar if the ship is a tanker. Risks to ports are also posed by other vessels that are not carrying dangerous goods when they are bunkering or carrying out certain work on the vessel.

The current requirement to obtain written approval before carrying out certain works or bunkering while in the waters or berthed at a port facility should be extended to additional vessels. This may include vessels that currently require a certificate of local knowledge, a pilotage exemption certificate, or pilotage services (vessels over 30 metres in length). Any such extension should be limited to activities that pose a safety risk, to minimise administrative requirements for vessels that need to obtain written approval.

This would assist the Port Authority in safely managing risks associated with bunkering and other specified works. No fees are charged for considering these applications.

Act Option 4: Consider extending the requirement to obtain written approval for carrying out bunkering or specified work to other relevant vessels, including those not carrying dangerous goods.

2.2 Private port operator directions

2.2.1 Enforcement of safety directions

Under Part 3A of the Act, a private port operator can, for the purpose of maintaining or improving safety and security at the port, give directions (port operator directions) regulating the following activities in the landside port precinct:

- the driving, stopping and parking of vehicles,
- the movement, handling or storage of goods,
- any activity that may pose a risk to the safety or security at the port.

A private port operator can take action to enforce directions, such as removing persons not complying with the direction and moving or removing vehicles or goods as required. A private port operator can recover the costs of enforcing directions from the person that did not comply. NSW Police can also assist in dealing with people that do not comply with port operator directions.

These powers are different to the powers available to government under Part 4A of the Act. TfNSW and the Port Authority, in the landside precinct of a port or wharf (but not the private ports), are able to enforce safety directions (including for traffic control) by issuing an 'on the spot' penalty notice (or PIN) of $500 or commencing criminal proceedings in court (maximum penalty of 30 penalty units), for non-compliance.

This difference in enforcement powers is due to the different roles of government and private entities. The NSW Government legal (and legislative) framework is designed for government agencies to issue PINs or prosecute offences under relevant legislation. This is because the types of activities for which a PIN or penalty may apply are criminal offences and are serious in nature. It is the role of government to administer the criminal justice system in the public interest.

Government and private entities can work in partnership to ensure the safety and security of significant assets are managed and maintained, as shown in the examples below.

Examples of traffic control by private entities

Major airports in Australia are operated by private entities. To facilitate effective management of traffic and parking at airports, the Australian Government implements an opt-in infringement scheme for private airport operators under the *Airports (Control of On-Airport Activities) Regulations 1997* (Cth), based on local council parking enforcement processes. It operates at many major airports in Australia, including Sydney Airport. The scheme can be enforced by authorised persons, which includes the Australian Federal Police, an airport operator or their employee or contractor.

An example of a similar arrangement in NSW is the operation of toll roads, which are managed by a private operator. To assist the private operator with effective enforcement of the toll system, TfNSW can issue PINs for any infringements (such as not paying the toll) on the advice of the private operator and commence any proceedings in court for non-compliance on their behalf.

Option for strengthening traffic control at ports

To strengthen enforcement of traffic controls, it is proposed to introduce a criminal offence and PIN for breaching a private port operator direction. Under this option, the NSW Government would authorise the issuing of PINs by NSW Ports or Port of Newcastle staff that are appropriately trained for issuing safety and security directions. For serious or escalating breaches, the NSW Government can commence criminal proceedings in court on behalf of the private port operators. The ability for private port operator staff to issue PINs would be limited to the port operator safety directions.

This change would ensure effective enforcement of port operators' traffic control directions, provide clarity for port users on their obligations in port areas and strengthen the safe operation of the ports of Botany, Kembla and Newcastle. The Cost Benefit Analysis of PBLIS noted enforcement of parking rules in the port precinct contributed to traffic decongestion at Port Botany[1].

Port operators are required to report to the Minister on their safety or security directions twice per year. This includes reporting on directions they have issued or

1 Castalia 2022, Cost-Benefit Analysis of PBLIS Performance, Sydney, NSW, p. viii

removed, any breaches of directions and actions taken by the port operator to enforce compliance with directions. This monitoring role provides visibility of traffic control at ports and ensures the appropriate implementation of those powers. A private port operator requested this reporting timeframe be changed to annually. The suitability of the timeframe will be considered in the context of this option, if progressed.

Act Option 5: Introduce a criminal offence and penalty notice amount (PIN) for breaching private port operator directions.

2.2.2 Private port operator directions – reporting requirements

Private port operators can issue port operator directions for the purposes of maintaining safety and security at the port. These directions can be on signs posted in the port, given directly to people, or gazetted and published on the port operator's website.

Port operators are currently required to give at least two weeks' notice of directions to the relevant harbour master for the port, and the Minister if the direction relates to the management of dangerous goods. This advanced notification is not required if the direction is given in an emergency.

It is proposed to reduce the notice period for private port operator directions from at least two weeks to at least one week to allow for more timely responses to general (non-emergency) safety or security issues.

Act Option 6: Amend the port operator direction notification period to one week.

2.3 Traffic control at ports and wharves

Part 5 of the Regulation provides requirements for parking of vehicles on TfNSW or Port Authority land near a port or wharf. Not complying with these requirements could incur a maximum penalty of five penalty units, or a $150 PIN.

However, this does not adequately address situations where the driver cannot be found, such as if a driver abandons or leaves the vehicle unattended. For example, where vehicles are parked illegally, causing safety and traffic management issues.

To strengthen enforcement of parking offences, it is proposed to extend liability for failure to comply with section 41 of the Regulation to the owner of the vehicle. This would be similar to arrangements currently in place for driving and parking offences on land outside of port and wharf areas.

Act Option 7: Extend liability for non-compliance with parking rules to the owner of the vehicle.

2.4 Port operator charges

2.4.1 Environmental performance

The Act covers port operator (the two private port operators and the Port Authority) charges for key services provided, such as navigation services, site occupation and wharfage. The Act and Regulation outline the specifics of these charges including the calculation methodology and information required to determine these charges. Port operators have the ability to waive or refund all or part of the port charges applied.

Under the NSW Government port price monitoring scheme in Part 6 of the Act, the Minister is responsible for monitoring changes to port charges, including the introduction of new charges by port operators. The Minister does not regulate or approve port charges.

NSW Government environmental sustainability policy

In 2016, the NSW Government announced its long-term objective to achieve net zero emissions by 2050, which was outlined in the NSW Climate Change Policy Framework[2]. The framework aims to maximise the economic, social and environmental wellbeing of NSW in the context of a changing climate, and current and emerging international and national policy settings and actions to address climate change.

Transport for NSW is supporting this target through actions outlined in the NSW Government Net Zero Plan Stage 1: 2020-2030[3] and the Freight and Ports Plan 2018-2023 that set out the Government's priorities to make the freight sector safer, cleaner and more efficient, and by developing a sustainable supply chain that delivers benefits to our environment and continued operations into the future[4].

Environmental performance of ports

Measures to improve the environmental performance of vessels that use ports in NSW are consistent with the target to reduce carbon emissions. Port operators can assist in promoting these changes by providing incentives for incoming commercial vessels to improve environmental practices and performance.

Globally, ports have been working to improve environmental performance. Port operators in NSW have implemented several initiatives in support of improved environmental performance, for example:

- The Port Authority has a net zero target and will be installing and supplying shore power in the Bays Port precinct of Sydney Harbour. This involves the development of a landside electricity supply for ships at five berths, powered by 100 per cent certified renewable energy, expected to achieve a reduction of up to 14,000 tonnes of CO2 emissions per annum[5].
- NSW Ports introduced an environmental incentive scheme for shipping in 2019. The scheme enables qualifying vessels, those on the Environmental Ship Index (ESI) visiting Port Botany or Port Kembla, to receive a financial payment via a rebate on their port charges. The ESI identifies ships that perform better in reducing air emissions than is required under current air emission standards of the International Maritime Organization. Under the scheme, information can be requested to assist in understanding emissions reductions, however that is limited to vessels that apply for the rebate[6].
- Port of Newcastle is a member of the International EcoPorts network, which provides a consistent and globally recognised approach to environmental management in the port sector. This involves initiatives that seek to minimise and offset the port's environmental footprint[7].

It is proposed to introduce a further variable for existing port operator charges to specifically allow for the fixing of different charges based on the environmental impact of a vessel.

2 Office of Environment and Heritage 2016, NSW Climate Change Policy Framework, Sydney, NSW, pp. 1-9
3 Department of Planning, Industry and Environment 2020, Net Zero Plan Stage 1: 2020-2030, Sydney, NSW, pp. 12-37
4 TfNSW 2018, NSW Freight and Ports Plan 2018-2023, Sydney, NSW, pp. 11, 73-76
5 Port Authority of NSW 2022, Shore Power, https://www.portauthoritynsw.com.au/sustainability/net-zero-energy/shore-power/
6 NSW Ports 2020, Environmental Incentive NSW Ports, Sydney, NSW pp 2-3.
7 Port of Newcastle 2019, Port of Newcastle leads ANZ, https://www.portofnewcastle.com.au/news/port-of-newcastle-leads-anz-in-committing-to-global-environmental-standards/

Changes to the charging arrangements could allow different port charge rates to be set, for factors such as:

- Accessing shore power in berths where this infrastructure is available.
- The noise performance of a vessel and its operations.
- The carbon emission performance rating of the vessel.

This change would increase efforts to address environmental sustainability in NSW and support the NSW Government and port operator environmental targets.

While port operators can currently implement rebate schemes, this is considered an inflexible way to influence improvements in environmental outcomes for ports in NSW because the schemes are voluntary and do not allow information to be obtained from vessels that do not apply for a rebate. This option is also relevant for the mandating vessel performance information option outlined in **Act Option 11** below.

Act Option 8: Allow for variations in port charges in relation to the environmental performance of a vessel.

2.4.2 Port price monitoring scheme – reporting requirements

Under the port price monitoring scheme in Part 6 of the Act, the Minister is responsible for monitoring the prices port operators charge users, to promote a competitive commercial environment in port operations. The Minister does not regulate or approve port charges.

The scheme requires port operators to publish charges on their websites, report on charges annually to the Minister, and notify the Minister of changes to the charges. Under the notification requirement, port operators must inform the Minister of the introduction or removal of any charges and any increases to existing charges at least 20 business days before the change. Port operators must provide details on the changes, such as what the charge will be used for, how it is calculated and who will pay the charge.

Some port operators routinely provide longer than 20 business days' notice of changes to their charges. This facilitates appropriate monitoring and ensures that the Minister can be advised that the reporting requirement has been suitably met. To facilitate consistency across all port operators, and ensure appropriate time to complete monitoring activities, it is proposed to change the notice period from at least 20 business days to at least 40 business days prior to the change.

Act Option 9: Increase the port charges notification period to the Minister to at least 40 business days before the change.

2.5 Port boundaries

The port boundaries for Botany Bay, Sydney Harbour, Port Kembla, Newcastle, Eden and Yamba are included in Schedule 4 to the Regulation. This provides boundaries for where and how powers under the marine legislation are applied, particularly the safety functions and responsibilities of the Port Authority as set in its PSOL. Waters outside of these boundaries are the responsibility of TfNSW.

There have been various changes to the management of NSW waters, such as the establishment of the Port Authority in July 2014 following the amalgamation of the Sydney, Newcastle and Port Kembla Port Corporations. In NSW waters, the Port Authority is generally responsible for managing vessels over 30 metres in length (being vessels that require pilotage services), and TfNSW is responsible for other vessels.

The movements in port areas of vessels over 30 metres in length that require pilotage services are closely monitored and managed by the Vessel Traffic Service (VTS) provided by the Port Authority. Applying a risk-based approach and utilising a combination of radar, security cameras and Automatic Identification System (AIS) trackers on vessels, the VTS covers the port waters traversed by relevant vessels.

The current port boundaries extend beyond the areas that are used by vessels that access ports and include areas not covered by the VTS that are used by recreational and domestic commercial vessels, or that are not navigable. For example, the port boundaries include significant coverage of tributaries into Port Botany or Sydney Harbour such as parts of the Parramatta, Georges and Cooks rivers.

Consideration should be given to whether the port boundaries remain effective and appropriate to safely manage the State's waters. Implications of changing the boundaries for the ports and maritime legislative framework in NSW will be comprehensively considered in that review.

Act Option 10: Review application of current port boundaries and update if required.

2.6 Information and reporting requirements

2.6.1 Vessel environmental performance information

Under the Act, port operators can request information from vessels for specific purposes, including monitoring compliance with port operator directions, calculating and applying port charges, compiling required statistics and co-ordinating communication at the port.

An expansion of these requirements is proposed to support ongoing monitoring of vessel environmental performance through the provision of information including:

- The type of fuel(s) in use on the vessel (including sulphur content, where applicable).
- Whether or not the vessel is fitted with an exhaust gas cleaner (scrubber) system.
- Noise emission levels for the vessel (both alongside at wharf or at anchor) and noise control / mitigation measures in place (if any).
- The capacity of all relevant pumps and outlets for vessels carrying bulk liquids.

This information would contribute to effective management of environmental protection and risk mitigation strategies in ports, for example, air quality and noise control.

NSW Ports has developed a 2019-2022 Sustainability Plan, the Port Authority has net zero targets and a Sustainability Plan, and the Port of Newcastle has sustainability commitments, including through its Active Environmental Management approach. Access to vessel performance information may help to identify opportunities for improvement and assess new initiatives. Collection of this information may also assist with determination of future port infrastructure needs and support the NSW Government's Net Zero policy, which forecasts reduced emissions reduction in NSW by 2030 and a goal of net zero emissions by 2050[8].

Act Option 11: Require the provision of vessel performance information to relevant port authorities.

8 Department of Planning, Industry and Environment 2020, Net Zero Plan Stage 1: 2020-2030, Sydney, NSW, p. 4

2.6.2 Information and data types for manifests

Vessel owners must currently provide certain information in a manifest relating to the loading or discharge of goods, including the address of the consignee and the berths at which the goods are loaded/discharged, as well as other information about the goods that the relevant port operator reasonably requests. A manifest is a document listing certain information for the use of customs or other officials.

It is proposed to mandate the provision of manifest information in Electronic Data Interchange (EDI) format, unless agreed otherwise with the port operator. The benefits of EDI are data standardisation, improved quality of data and minimisation of errors (for example, associated with manual data entry), as well as streamlining of processes and reduced administration. It is noted that general industry practice in container trade at Port Botany is to use EDI format for manifests, and that this format may not be suitable for other trades through ports.

In addition, it is proposed to require the provision of the following additional information in manifests to relevant port operators:

- If the goods are carried in a container, the inland point of destination/origin for the container within Australia (represented by a 4-digit Australian postcode). This would provide a single and reliable source of data on import and export distribution patterns within NSW and improve understanding of road and rail infrastructure requirements for cargo movements to facilitate infrastructure planning.
- Harmonised Code (HC) descriptions, including the relevant 8-digit Australian Harmonised Export Commodity Classification for the goods (as published by the Australian Bureau of Statistics). The 8-digit code would help ensure the HC adequately describes the goods, and the HC system would provide consistency and mitigate input errors and terminology variations of using generic categories.

It is also proposed to require relevant port operators to provide this information to the NSW Government, to provide greater visibility of import and export container movements.

Act Option 12: Mandate information and data formats and types for vessel manifests and that these be provided to the NSW Government.

2.7 Modernising and streamlining the Act

When enacted in 1995, the purposes of the Act included establishing statutory state-owned corporations to operate the State's port facilities in the major ports, transferring waterways management and other marine safety functions to the Minister and providing for port charges, pilotage and other marine matters.

Since then, the ports and maritime operational landscape has changed significantly and over time various amendments to the Act have been made. Some of the key changes include:

- Major reforms to drive efficiency improvements in the port supply chain and to promote productivity and competition at ports, including the development of PBLIS in 2010 following a 2008 Independent Pricing and Regulatory Tribunal (IPART) review into the port landside interface.
- 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 prescribed in leases and the Act.

- In 2014, the Sydney Ports Corporation, Port Kembla Port Corporation and Newcastle Port Corporation were amalgamated into Newcastle Port Corporation, trading as the Port Authority of New South Wales (the Port Authority).
- The transfer of harbour master and pilotage provisions to the Marine Safety Act.
- The transfer of the management of dangerous goods in ports functions to the ports and maritime regulatory framework.
- The transfer of various functions to facilitate government agency structure changes over time, for example, the transfer of safety and other functions from the Waterways Authority to the Maritime Authority, to Roads and Maritime Services, and now TfNSW.

2.7.1 Transport for NSW functions

Over time, the marine legislation structure and functions that agencies are responsible for has evolved and some ports and maritime functions undertaken by TfNSW would benefit from greater clarification in the Act. This clarity is required to ensure government responsibilities and obligations are clear, and any associated funding is appropriately allocated. These include:

- The long-standing function of keeping Sydney Harbour and other waterways free from debris. This function was historically undertaken by the Sydney Harbour Trust, then the Maritime Services Board and now sits with TfNSW. This key responsibility enhances the protection of the marine environment and amenity for waterway users and prevents navigational hazards. TfNSW operates multi-purpose vessels staffed by specially trained teams to carry out this function.
- Maintenance of river entrance management infrastructure and vessel maintenance facilities. In 2020, some waterway assets were transferred from Crown Lands to TfNSW. As a result, TfNSW now has responsibility for the management of additional significant coastal infrastructure for use by vessels and industries. This infrastructure includes river entrance management infrastructure, river training walls and vessel maintenance facilities. TfNSW also provides other key infrastructure facilities in response to the increasing use of waterways in NSW.

Act Option 13: Clarify key functions of Transport for NSW, which include keeping waterways free of debris and the maintenance of additional waterways infrastructure.

2.7.2 Maritime Advisory Council functions

The Maritime Advisory Council (MAC) 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 domestic commercial vessels (as defined in the National Law) and recreational vessels. It does not provide advice on freight related matters.

Members are appointed by the Minister and must have demonstrated individual expertise across one or more of the recreational boating, domestic commercial vessel or maritime property sectors. The Council currently has 10 members and meetings are held bi-annually or at the Minister's discretion. Members are appointed for a maximum of three years. After this period, members are eligible for re-appointment at the discretion of the Minister. Alternatively, the Minister may elect to refresh the membership of the Council.

In their submissions on the Discussion Paper, some MAC members, the Boating Industry Association and an individual suggested expanding the role of the MAC to better reflect all TfNSW maritime functions.

It is proposed to clarify the MAC functions in the Act to align with the current competencies its members are required to have, by including the provision of advice in relation to property. This is an existing competency required in the Act and would be in addition to current functions of providing advice on maritime safety, infrastructure and research.

Act Option 14: Expand the functions of the Maritime Advisory Council to include advice and recommendations on property and infrastructure, to align with the expertise required of the MAC members and the functions of TfNSW.

2.7.3 Updates to the Act

Various other changes are proposed to update and streamline the Act to simplify it, improve clarity and remove unnecessary or outdated requirements. Some stakeholders recommended updating the Act to provide clarity and improve legislative consistency.

The proposed changes include:

- Detail the objectives of the Act clearly to modernise the Act in line with current legislation drafting practice and align it with the other marine legislation that has been more recently reviewed (*Marine Pollution Act 2012* and *Marine Safety Act 1998*).
- Remove references to multiple port corporations, noting that there is now only one port corporation in operation, trading as the Port Authority of New South Wales (the Port Authority).
- For the port charges site occupation charge provisions, remove the requirement for a map to be physically kept at the office of the relevant port authority so that maps can instead be available online.

Act Option 15: Amend the Act to streamline and simplify requirements where suitable.

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 PBLIS review options

The review of the Port Botany Landside Improvement Strategy has considered:

- 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.

The comprehensive review has also considered 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.

PBLIS was introduced to address landside port interface inefficiencies. In 2008, IPART noted 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[9].

The NSW Government, by introducing PBLIS, sought to improve service coordination and investment levels at the port landside interface to support the high levels of throughput and cater for growth at Port Botany, NSW's primary container port. Container throughput at Port Botany has grown from 1.9 million TEU in 2010 to over 2.5 million TEU in 2021[10]. PBLIS has delivered on this aim and addressed the landside congestion and some of the inefficiency issues that were originally identified.

The increased demands on the stevedores from growing container volumes and competitive pressures have also provided the incentive to perform efficiently on the landside (in addition to PBLIS). The issues PBLIS was implemented to address have however not been eliminated entirely, as when pressures arise, stevedores preference servicing the quayside over the landside. It is difficult to evaluate the size of the problem that remains. The review has therefore considered a range of options for how to best manage the landside interface into the future. Recognising that the PBLIS approach, as currently designed, can be improved.

The Cost Benefit Analysis (CBA) supports this approach, outlining that if left to voluntary industry arrangements, it is not expected that industry would address the landside inefficiencies PBLIS was introduced to address. The CBA found the key benefits of PBLIS arise from traffic decongestion and reduced emissions resulting from the removal of heavy vehicles from roads around the port[11]. This is achieved mainly through the provision of the Truck Marshalling Area and enforcement of service lines at terminals and, to a lesser extent, parking rules in the port precinct.

The review considered a wide range of options and provides four groups of options with a total of 23 individual options for further consideration. A preferred option is not provided, instead stakeholder feedback is sought to inform the Independent Reviewer's Final Report recommendations. The final recommended option will consider the level of confidence that the issues PBLIS was introduced to address will not reoccur.

Proposals and feedback presented by stakeholders have been considered in the Review. Those not assessed as potentially suitable, are not included. As outlined in

9 IPART 2008, Reforming Port Botany's links with inland transport, Sydney, NSW, pp. 1-14
10 Source: Sydney Ports Corporation and TfNSW data
11 Castalia 2022, Cost-Benefit Analysis of PBLIS Performance, Sydney, NSW, p. viii

Chapter 1, the Better Regulation Principles have been applied to the options analysis and selection.

Options included have been selected for their ability to:

- Support or contribute to overall port efficiency.
- Streamline or modernise arrangements.
- Reduce administrative complexity and/or burden.

Consideration has also been given to the level of government market intervention and the ability of government or industry to implement the options. The suitability of options for the expected future ports environment has also been considered.

Two options considered have been assessed as not suitable. These are:

- Retain PBLIS with no changes – While PBLIS has delivered benefits by addressing inefficiency at the port landside interface, this option is not suitable, as various improvements to the current PBLIS arrangements have been identified. These improvements have the ability to better support port efficiency, reduce administrative complexity/effort and streamline or modernise the arrangements, therefore continuing with the current arrangements unchanged is not appropriate.
- The complete removal of PBLIS, following this review – Leaving the management of the landside interface solely to the market has been considered and is assessed as not being suitable at this time. PBLIS was introduced to address significant inefficiencies and negative impacts of congestion in and around the Port Botany precinct. The structure of the port market and relationships between industry participants means that confidence is currently not high that these issues would not reoccur, with the removal of PBLIS.

Four sets of PBLIS options are presented in this Options Paper and they each include a number of individual options. The sets of options are not mutually exclusive and the final recommendations may include options from within each set:

Option A - Retain the PBLIS regulation applying to truck servicing arrangements at Port Botany and make some changes to support port efficiency and improve its function. This set of options are designed to support port efficiency, address stakeholder issues, modernise requirements, improve flexibility and reduce administrative burden.

Option B – Make changes to the PBLIS arrangements that are considered broader in scope or potentially more extensive changes to the current approach. This set of options also considers other parts of the port supply chain that PBLIS currently does not regulate to the same extent as truck servicing such as empty container parks and data, and asks how these options might be implemented, either voluntarily by industry or via government regulation.

Option C - Transition away from regulated PBLIS arrangements to non-regulated arrangements but implement ongoing performance monitoring and retain the potential to reintroduce regulation if required. While other container terminals in Australia operate without regulation of the landside interface, given the prior poor landside performance at Port Botany and to provide confidence that efficient performance standards would be maintained, a non-regulatory approach would retain the ability to re-regulate.

Option D – Covers rail at Port Botany and includes consideration of future rail requirements in the context of the overall rail network, and considers that with the range of significant investments and initiatives currently underway at both the port and on the broader network, a government intervention (like PBLIS) at this time is not required.

PBLIS OPTION A

3.2 PBLIS Option A

Retain the PBLIS regulation of truck servicing arrangements at Port Botany and make changes to support port efficiency and improve the PBLIS regulation. Items in this option are detailed below.

OPTION A	TITLE
A1	**Apply late penalties per truck trip rather than per container –** Change late arrival penalties to be applied per truck rather than per container.
A2	**Investigate options for stevedore impacted trucks –** Consider options for a port-wide approach to stevedore impacted trucks.
A3	**Apply unforeseen events to terminal sections** – Increase flexibility in stevedore unforeseen events to allow cancellation of part of an impacted time zone, to allow the remainder of the terminal to continue operating.
A4	**Change carrier cancellation rules to 'take or pay' –** Change the notice period and booking cancellation rules by road carriers to a 'take or pay' arrangement.
A5	**Remove large and small carrier classifications –** Remove the option to separate road carriers into Large Carriers (Class B carriers) and Small Carriers (Class A carriers) for the purpose of releasing slots.
A6	**Change penalty amounts –** Increase penalties by CPI backdated from implementation and apply annually in future.
A7	**Improve road data transparency –** Increase information available publicly on stevedore truck servicing and improve data provided to government to provide additional functionality.
A8	**Remove the broad power for regulating stevedore charges –** Remove the broad Regulation power to regulate stevedore charges that is not aligned with the NSW Government regulatory framework and remove the associated PBLIS stevedore charge notification and government assessment requirements.

3.2.1 Option A1 - Apply late penalties per truck trip rather than per container

Currently a truck that arrives late for a booking at the stevedore terminal could incur a $50 or $100 late arrival penalty per booking (per container) under PBLIS (section 54 of the Regulation), as below:

- **$50 (per container)** for a truck that arrives after the end of the time zone but before the end of the extended arrival period (30 minutes after the end of the time zone) and the stevedore permits entry to the terminal.
- **$100 (per container)** for a truck that arrives after the end of the time zone but before the end of the extended arrival period and the stevedore denies entry to the terminal.
- **$100 (per container)** for a truck that arrives after the end of the time zone and after the end of the extended arrival period, regardless of whether the stevedore permits entry to the terminal.

This means trucks delivering and picking up multiple containers can incur multiple $50 or $100 penalties on one trip. For example, on the upper end of the scale, an A-Double truck could incur up to eight penalties for being 10 minutes late for the booked time zone. This is assuming four 20 foot export containers were to be dropped off, and four 20 foot import containers were intended to be picked up. This result in a $400 penalty if the truck is permitted entry to the terminal. Extended late penalties where the truck arrives after the extended arrival period (30 minutes after the end of the time zone) could result in $800 worth of penalties, with the potential for the truck to be penalised as well as not serviced at all.

Container densities[12] have not increased significantly while PBLIS has been in place. This is noted in the CBA which outlines that container densities have increased by 5.6 per cent between 2011 and 2021 (annual averages).[13]

The Deloitte Report notes the complexity of higher container density trips (for example, multiple pick-up and drop-off locations) and the strong financial incentives for on-time arrival creates a situation where low-density trips are seen by road carriers as being more beneficial. The report also notes "combined with the broader trend of more containers moving through the port this necessarily means that PBLIS has increased the total number of trips to the port and has shifted operations more strongly towards direct trips and staged deliveries to reduce complexity."[14]

Penalties per truck trip

The potential for incurring multiple late arrival penalties may be creating a disincentive to utilise trucks with higher capacity and therefore may not be supporting overall port supply chain efficiency.

This issue is of particular relevance for PBLIS in the circumstance where a truck has been held up by a stevedore on a previous trip which resulted in the truck being late for the next stevedore, or when a truck's late arrival is caused by a delay at another supply chain facility. To avoid the potential for large penalties, trucks may avoid transporting multiple containers or visiting multiple stevedores or other facilities on one trip to the port. Taking a port wide approach is considered further in **PBLIS Option A2.**

Applying late arrival penalties per truck rather than per booking would reduce potential penalties for transport operators with multiple containers on each truck and support increased container density, leading to less truck trips overall. The benefits of

12 Container density is a measure of how many containers are being serviced on each truck per trip to the stevedore terminal. The higher the number of containers per trip, the fewer truck trips required to complete the container task, which means a reduction in trucks on the road.
13 Castalia 2022, Cost-Benefit Analysis of PBLIS Performance, Sydney, NSW, p. 24
14 Deloitte Access Economics 2022, PBLIS Industry Behavioural Research, Sydney, NSW, p. 18

less truck trips include reduced congestion in the port, and increased truck operator and stevedore efficiency by reducing the amount of trucks entering the terminal relative to the number of containers serviced (this benefit may depend on how stevedores operate their terminal and whether they are equipped to efficiently service multiple containers per truck).

Benefits

- Reduced penalties for trucks carrying multiple containers.
- Enable stevedores to service more containers from less trucks.
- Incentivise the use of higher productivity vehicles that have greater safety and efficiency performance.
- Reduce port congestion and environmental impacts from fewer vehicle movements.

Challenges

- Where a truck is late, the impact on the stevedore may be higher for a multiple container truck compared to a single container truck, if resources are allocated on a container basis. However, the overall benefits for port efficiency should mitigate this potential impact.

PBLIS Option A1: Apply late penalties per truck trip rather than per container - Change late arrival penalties to be applied per truck rather than per container.

3.2.2 Option A2 – Investigate options for stevedore impacted trucks

Currently, there are PBLIS arrangements in place for trucks affected by the failure of a stevedore to service the truck within the TTT (referred to as stevedore impacted trucks). Under section 11 of the Mandatory Standards, if such an incident occurs between 4pm and 4am on a weekday or during a weekend, the carrier of the affected truck is not penalised for being late for subsequent bookings at the same stevedore.

This ensures that road carriers are not unfairly penalised for late arrivals resulting from a previous failure to service by the stevedore during off-peak periods. It is also intended to incentivise off-peak port utilisation.

However, the current arrangements relating to stevedore impacted trucks do not have port wide application. This means that they do not extend to situations where the truck is late for a booking at a different stevedore's terminal. For example, if a truck is held up at stevedore A, they could receive a payment of $100 for a failure to service that truck. If, as a result of that failure, the truck is late for a subsequent booking at stevedore B, the carrier will receive up to a $400 penalty from stevedore B. The net result is that the truck has not been compensated for the original delay at stevedore A. Further, if the carrier had booked multiple slots at stevedore B, they could incur a $100 penalty for each booking.

A detailed option to address stevedore impacted trucks, taking a port wide approach, is not proposed as there are a number of operational barriers and complications that need to be considered. However, it was raised by a number of stakeholders and further feedback is requested on proposed approaches that could accommodate a port wide perspective.

Stakeholder feedback

Some stakeholders suggested consideration of the application of penalties for late arrivals due to delays caused by third parties (such as empty container parks

or distribution centres). Feedback also suggested trucks making trips to another stevedore or empty container park could either be granted more time or relief against late arrival penalties, and allow carriers to replace the affected truck with another truck for subsequent bookings.

Other suggestions included setting clearer rules and timeframes for when the arrangements can be used, extending the current arrangements to 24 hours a day, 7 days a week, and removing the stevedore impacted truck arrangements altogether to reduce the administrative effort involved for all parties.

Benefits

- Extending the current arrangements for stevedore impacted trucks to another stevedore may improve overall port efficiency by supporting port wide visits to multiple stevedores, reducing the number of separate trips into the port.
- This option could also consider application to delays at empty container facilities, and provide more flexibility so that carriers could nominate another truck for subsequent bookings to facilitate effective management of operations. This could possibly be implemented via Automatic Number Plate Recognition (ANPR) camera technology, the use of telematics or accessing empty container park data.

Challenges

- This option would pose implementation challenges, as there is currently no IT communication system between stevedores that would enable them to notify each other of which trucks are stevedore impacted trucks.
- It may increase the administrative complexity of PBLIS, particularly if disputes arise in relation to appropriate notification in IT systems. It is noted however that these implementation issues may be addressed if a live data sharing platform is available in future such as a Freight Community System.
- Empty container parks are not covered by the PBLIS arrangements and to incorporate them into a port-wide approach may require applying additional regulation.

PBLIS Option A2: Investigate options for stevedore impacted trucks - Consider options for a port-wide approach for stevedore impacted trucks.

3.2.3 Option A3 – Apply unforeseen events to terminal sections

PBLIS currently allows a stevedore to cancel one or more time zones due to an unforeseen event (section 14.4 of the Mandatory Standards), for example due to a significant unexpected weather event. This cancellation of a time zone applies to the entire stevedore terminal.

Applying a stevedore unforeseen event to part of the terminal would allow partial closure of a stevedore terminal for an impacted time zone. This would allow the remainder of the terminal to continue operating and therefore have less impact on the movement of containers. When a stevedore is dealing with an unexpected incident impacting terminal operations and their focus is appropriately on returning the terminal to full capacity, any related administrative process should be as streamlined as possible.

This option would complement the recent amendment to the Mandatory Standards, effective from 1 September 2021, that allows a stevedore to designate sub-sections in their terminals. This change was designed to improve operational efficiency by dispersing the truck servicing task within the stevedore terminal. This provides the opportunity for stevedores to release slots by terminal section, if implemented. TfNSW

must approve the designations initiated by a stevedore, after appropriate industry consultation. Enabling unforeseen events to be applied to sub-sections of the terminal would complement this change and ensure consistent consideration of terminal sub-sections in the Mandatory Standards.

Performance requirements such as on time running and TTT would remain in place for parties and containers not affected by the unforeseen event.

Stakeholder feedback

A stakeholder requested unforeseen events be able to be applied only to specific areas of a terminal so that operations in unaffected sections of the terminal could continue.

Benefits

- Reduce the impact of an unforeseen event by limiting the affected area of a stevedore terminal.
- Allow port users not affected by the unforeseen event to continue operational functions such as on time running and TTT.
- Increase port resilience by reducing pressure on the supply chain and reducing the impact and recovery time from an unforeseen event.

Challenges

- Initial costs and effort for changing stevedore and TfNSW operating systems required to implement this option..

PBLIS Option A3: Apply unforeseen events to terminal sections - Increase flexibility in stevedore unforeseen events to allow cancellation of part of an impacted time zone, to allow the remainder of the terminal to continue operating.

3.2.4 Option A4 – Change carrier cancellation rules to 'take or pay'

Road carriers can currently cancel a booking for a slot up to 24 hours prior to the commencement of the time zone (section 8 of the Mandatory Standards). To cancel a booking, road carriers must re-list the slot so it can be booked by another carrier. If the cancelled slot is re-listed up to 24 hours prior to the time zone, or if it is re-listed between 24 hours and 12 hours prior to the time zone and is re-booked, the carrier will not incur a penalty (section 9 of the Mandatory Standards).

The current penalty for carrier booking cancellations is $50, plus the stevedore booking fee for the cancelled booking (section 53(3) of the Regulation).

This means carriers can potentially hold bookings that are not necessarily needed and then re-list them without penalty (referred to as 'slot hoarding'). This can result in wasted bookings if the slots are re-listed too late for another carrier to utilise them.

Changing the carrier cancellation rules to a 'take or pay' type arrangement may provide the incentive to reduce or eliminate slot hoarding. Under this arrangement, a carrier would incur a penalty for a returned booking if the slot is not re-booked by another carrier, up to 12 hours prior to the start of the time zone. This would effectively remove the 'free' 24-hour period where a carrier can retain a booking and return it to the system without penalty.

Other approaches to address slot hoarding and the 'mad minute' are covered in the no booking until discharge (or 'advanced booking') section in **PBLIS Option B9**.

It is noted that this approach may be impacted by operational system designs that could impact how accessible a booking system is for users. These factors are not specified in PBLIS and what is considered refers to the PBLIS booking rules.

Stakeholder feedback

Stakeholders suggested a range of changes, including a penalty to all re-listings if the slot is not re-booked, the carrier cancellation timeframe without a penalty should be removed entirely, and more leniency for carrier cancellations for example by reducing the cancellation timeframe without a penalty from 24 hours to 12 hours.

Benefits

- Reduce instances of slot hoarding.
- Better align slots booked to the work task, rather than more slots booked with unnecessary slots returned later.
- Support efficient and equitable access to slot bookings.
- Enable better planning, routing and efficiency for carriers.

Challenges

- Potential uncertainty for carriers about when containers will be available (note this would be mitigated by the no booking until discharge option).

PBLIS Options A4: Change carrier cancellation rules to 'take or pay' - Change the notice period and booking cancellation rules by road carriers to a 'take or pay' arrangement

3.2.5 Option A5 – Remove large and small carrier classifications

Section 15.1 of the Mandatory Standards give stevedores the option to allocate half the total number of slots per hour for Large Carriers and half for Small Carriers for bookings. Under section 29 of the Mandatory Standards, Large Carriers are those carriers that have completed the highest number of bookings and collectively completed bookings for half of the minimum number of slots in a quarter calendar year, with Small Carriers representing the remainder. Currently, two stevedores implement this split.

This option was introduced to ensure large operators could access the number of slots they required and that operators with smaller businesses had opportunities to book slots competing only with similar sized carriers. The 50/50 split is broadly reflective of the market split between large carriers servicing large volume customers and smaller ones generally servicing smaller volume customers. Carriers do at times change from being classified as a small or large operator and the classes are considered on a quarterly basis.

The Review is considering whether this practice remains suitable in the current port operating environment and whether it is supporting overall efficiency in port operations. A carrier may shift between classes within a quarter calendar year and could therefore be unfairly restricted in accessing slots. Additionally, to efficiently move cargo through the port, either group of carriers may need access to more than 50 per cent of the minimum number of slots at different times. The structure of this approach has a lack of flexibility in its application that could impact on operational efficiencies.

Stakeholder feedback

Stakeholders noted that the divide between small and large carriers limits industry,

with operators reluctant to take on additional work that may impact capacity to book within an existing category. A stakeholder suggested that smaller carriers should be given easier access to premium booking slots (peak times), as they operate over more limited hours when compared to larger carriers.

Benefits

- Removing the option to allocate slots across classes of carriers will allow carriers to access the slots needed to move the required volumes, thereby improving overall port efficiency.
- Simplifies the booking system.

Challenges

- Small and large carriers will compete with all carriers for bookings, any preferential access they may have under the current arrangement could be removed.

PBLIS Option A5: Remove large and small carrier classifications - Remove the option to separate road carriers into Large Carriers (Class B carriers) and Small Carriers (Class A carriers) for the purpose of releasing slots.

3.2.6 Option A6 – Change penalty amounts

The PBLIS arrangements are based on performance standards with a two-way, or reciprocal, penalty system. Stevedores pay penalties to road carriers for failure to comply with stevedore performance standards (such as exceeding TTT, failure to meet truck servicing requirements and cancellations), and road carriers pay penalties to stevedores for failing to meet relevant performance standards (such as early or late arrivals and booking cancellations).

Under Part 6 of the Regulation, the penalties are either $50 or $100 (and may include the booking fee as well) for not meeting stevedore and carrier performance standards, and $25 per 15 minutes for stevedores exceeding TTT. Penalties are reconciled through a combination of stevedore booking and truck servicing data provided to the TfNSW Cargo Efficiency Operational System (CEOS) and TfNSW's independent truck tracking systems at the port.

The penalty amounts have not changed since their introduction in 2011. At that time, the penalty amounts were assessed as being appropriate to provide the necessary incentives and disincentives to influence performance improvement in the port landside interface. Since 2011, factors such as inflation, changes to operating costs and other supply chain impacts may mean the current penalty amounts do not adequately incentivise efficient performance to the extent that they did when PBLIS was introduced.

The CBA notes that as a proportion of total booking slots, penalised slots (bookings related to a breach of the Mandatory Standards) have increased slightly since 2011, and that this may indicate that parties have incorporated the costs of penalties into their cost of doing business. The CBA further notes that this "may also indicate that the dollar values of the penalties are not enough of a deterrent to change behaviour."[15]

It is proposed to update the PBLIS penalty amounts as outlined in the table below, based on CPI increases from 2011 to March 2022, and to increase penalties by CPI on an annual basis in future. Increasing penalties in this way would strengthen the effectiveness of incentives and distinctives on performance and updates this part of PBLIS.

15 Castalia 2022, Cost-Benefit Analysis of PBLIS Performance, Sydney, NSW, p. 21

Table 1 - PBLIS penalties under Option A6

PENALTY REASON	CURRENT	PROPOSED[16]
• Exceeding TTT (per 15 minutes)	$25	$35
• Carrier cancellation of booking • Early /late arrival by carrier of stevedore permits • Stevedore cancellation of time zone with sufficient notice	$50	$65
• Early/late arrival by carrier • Non-service caused by fault of carrier • Stevedore failure or refusal to perform truck servicing • Stevedore cancellation of booking • Stevedore cancellation of time zone without sufficient notice	$100	$130

Stakeholder feedback

A number of stakeholders provided feedback that the current penalties should be reviewed. Some stakeholders also suggested specific changes, canvassing a range of options in relation to penalties, such as annual increase in line with CPI (and backdating from 2011), increases to some penalties only, introduction of new penalties, removing penalties altogether, replacing the penalty regime with a demerits points system and heavier penalties during peak times. The latter two suggestions are discussed further in **PBLIS Options B10 and B11.**

Benefits

- Strengthens the effectiveness of the penalty regime and supports its effectiveness in future.
- Updates this part of PBLIS.

Challenges

- Increasing penalties by CPI (backdated since 2011 and applied in future) may not be a large enough penalty to act as a deterrent and influence behaviour.

PBLIS Option A6: Change penalty amounts – Increase penalties by CPI backdated from implementation and apply annually in future.

3.2.7 Option A7 - Improve road data transparency

Currently there is limited visibility of stevedore truck servicing data. TfNSW receives stevedore landside servicing data under the Regulation and while the current TTT is transparent on signage at the port, other details are not provided publicly.

Increasing information available publicly on stevedore and truck performance at Port Botany would provide greater visibility for industry of this part of the port supply chain. Enhancing the data provided to government could also better inform long-term planning (for example data on truck container density and truck size).

This option is aligned with **Options B13 and D20** and together they propose increased data transparency across the port supply chain - including empty container parks and port rail.

16 Current penalty amounts increased by the Australian CPI rate annually since 2011 and rounded up to the nearest $5.

In the future a Freight Community System (see **PBLIS Option B14**) could host this data which may be available in real time. This could provide clear performance data for stevedores and road operators to inform their understanding of in the way TTT performance is provided via PBLIS for road servicing.

Benefits

- Provide greater transparency of stevedore truck servicing at the port for industry.

Challenges

- Industry may be concerned about the release of performance information due to potential impacts on their business.

Implementation

This option could be implemented via regulation, utilising the existing ability for the Minister to require data on stevedore road performance, including the format in which data should be provided. Consideration would be given to what information is suitable to make public, ensuring commercial information is not compromised, while providing transparency wherever possible.

PBLIS Option A7: Improve road data transparency – Increase information available publicly on stevedore truck servicing and improve data provided to government to provide additional functionality.

3.2.8 Option A8 – Remove the broad power for regulating stevedore charges

Stevedore charge regulation – removal of Minister's broad power

Stevedore charges are applied to landside transport operators and passed on to cargo owners. This represents a recent shift in the charging structure of most stevedores nationally from quayside to landside operators. Stevedore charges are passed on to cargo customers and can have administration charges applied. Depending on payment terms, this can have a cash flow impact on transport operators until they are paid by their customers (cargo owners).

The NSW Government's position in relation to stevedore charges was outlined in its submissions to the Australian Productivity Commission Inquiry into Maritime Logistics and an overview of this position and further analysis is available in Appendix 5. Consideration of the regulation of stevedore charges was out of scope for this review.

As the matter of stevedore charges is a national productivity consideration and not a State issue, the PBLIS regulation should be updated to remove the broad power for the Minister to regulate stevedore charges under section 62 of the Regulation.

In addition to being a national matter, under the current framework the existing power is considered not suitable. When the NSW Government regulates private sector prices this responsibility is usually provided to IPART, which has various functions including being the independent pricing regulator for water, energy, public transport and local government. While IPART is a NSW Government agency it operates independently from government and its considerations focus on:

- protecting consumers from unreasonable price increases
- improving providers' efficiency and service quality
- encouraging competition
- protecting the environment
- ensuring that regulated service providers remain financially viable.

Importantly, when regulating prices, a pricing regulator has full visibility of all of the business costs, builds detailed benchmarking cost models and sets prices at a rate that ensures appropriate returns for the business as well as reasonable prices for customers.

Therefore, TfNSW is not an appropriate agency to undertake the regulation of stevedore charges. TfNSW is not a pricing regulator and does not have full visibility of all the costs across the supply chain. In line with the NSW Government Better Regulation Principles, government should take action only when the impact of that action is properly understood, by considering the costs and benefits (using all available data) of a range of options, including non-regulatory options. Government action should also be effective and proportional.

As noted above, the Australian Government is best placed to consider if regulation of stevedore charges is required, and if so, it is most appropriately considered at the national level and implemented under a suitable regulatory framework by an independent pricing regulator (such as the ACCC).

Accordingly, PBLIS should not retain a power that is not appropriate to be used by the NSW Government. Removing this broad power provides clarity of government responsibilities and provides certainty for industry that price regulation will not be applied. The removal of this power would not have an adverse impact on the implementation of PBLIS, for the following reasons:

- To date this power has not been used to regulate stevedore truck charges (see **PBLIS Option D19** for details on rail charges regulation) and, despite increases to stevedore landside charges since its commencement, PBLIS remains effective.
- The total value of stevedore charges now exceeds the value of the PBLIS penalties stevedores pay, yet the incentives for stevedores to meet PBLIS performance standards to avoid penalties remains in place. This is because it is in the stevedore's interests to maximise profit by reducing the penalties incurred under PBLIS for poor performance, regardless of whether they have effectively recovered the costs of those penalties via their charges.
- As noted above, the charges are applied reasonably consistently at a national level demonstrating they are not linked to PBLIS penalties.

PBLIS charges notification and assessment process

PBLIS includes a requirement for stevedores to notify TfNSW of planned increases to charges or the introduction of new charges. TfNSW is then required to undertake an assessment of the charge, to ensure that they are not being made by stevedores for the purpose of recovering the cost of paying PBLIS penalties. The Minister (and TfNSW) does not approve stevedore charges.

When PBLIS was introduced landside fees were minimal with stevedores earning revenue primarily from shipping lines. Booking fees of between $5-$11 were subsequently introduced[17]. Stevedore landside fees now include the following[18]:

- Booking fees of between $31-$44 per container.
- Terminal access charges of between $102-$160 per container.
- Annual booking registration fees of between $191-$235 per account.
- Side loader fees of between $64-$74 per trailer or truck.
- Long vehicle fees of up to $52 per truck, mis-declaration fees of up to $250 per truck and weight amendment fees (Pondus) of up to $237 per container,[19]
- and various other charges.

17 ACCC, Container stevedoring monitoring report 2020-21, p.52
18 Full lists of landside charges for each stevedore are available on their respective websites
19 Applied by Patrick Terminals

The ACCC in its 2020-21 report notes that "while stevedores now recover a greater proportion of their total revenue from landside operations than they did a decade ago, the bulk of their revenue still comes from the shipping lines."[20]

The charge assessment requirement in PBLIS was included to address the concern that stevedores could potentially recoup the cost of any PBLIS penalties via applying or increasing landside charges, and therefore undermine the penalty framework.

However, TfNSW does not have insight into stevedore's business costs (in the way a pricing regulator does when they regulate prices), and therefore has no ability to genuinely assess the rationale provided for changes to charges or new charges, to effectively assess whether charge changes are for the purpose of recouping PBLIS penalties.

Regarding the government notification process, with a nationally consistent industry and government notification process now in place via the National Voluntary Guidelines, the PBLIS requirements in this area are also not required.

The overall stevedore charging structure is now considerably different from 2010 when PBLIS was introduced. Stevedore landside charges revenue is now much greater than the value of penalties paid under PBLIS (to illustrate this at a high level, the three stevedores at Port Botany paid over $4 million in PBLIS penalties in CY2021[21] while stevedores' landside revenue from across the five major container ports in Australia was $639 million in 2020-21, of which $352 million was from Terminal Access Charges[22]).

Retain PBLIS storage charges and VBS fee requirements

The PBLIS Mandatory Standards applies provisions for how stevedore storage charges are applied and to ensure VBS fees do not duplicate PBLIS penalties (sections 17 and 18 of the Mandatory Standards). The Minister's power to regulate charges would be restricted to cover these provisions only. This amended provision would apply a narrow and specific scope to the existing broad power to regulate stevedore charges under section 62 of the Regulation.

Stakeholder feedback

Some stakeholders raised significant concerns about landside stevedore charges since their implementation in NSW from 2017. In line with the NSW Government position on stevedore charges, that was communicated to industry prior to the Review, specific consideration of stevedore charges outside of the current regulations and notification requirements was noted as being out of scope for this Review.

During consultation on the Discussion Paper some stakeholders, while noting the matter was out of scope for this review, reiterated concerns with stevedore charges and requested government intervention, including suggesting capping or setting stevedore charge amounts, the removal of specific stevedore charges and determining to which parties in the supply chain these charges could be applied.

Feedback was also received that government should not intervene in the market and that the regulated rail charge should also be removed (refer to **PBLIS Option D19**) with all charge rates left to industry to determine, alongside performance reporting.

Benefits

- Reduction of administrative effort for all participants.
- Provides market certainty for all participants that the NSW Government will not intervene in stevedore charges.

20 ACCC, Container stevedoring monitoring report 2020-21, p. 49
21 Source: TfNSW data
22 ACCC, Container stevedoring monitoring report 2020-21, p. 74

- Ensures administrative processes for setting stevedore charges can be consistent nationally under the National Voluntary Guidelines by removing NSW specific requirements.
- Provides legislative clarity by not retaining a power that is not appropriate to be used by a government agency that is not a pricing regulator.

Challenges

- None.

PBLIS Option A8: Remove the broad power for regulating stevedore charges
– Remove the broad Regulation power to regulate stevedore charges that is not aligned with the NSW Government regulatory framework and remove the associated PBLIS stevedore charge notification and government assessment requirements.

PBLIS OPTION B

3.3 PBLIS Option B

This option includes various changes to the current PBLIS arrangements considered broader in scope or a more extensive changes to the current approach. This option also considers other parts of the port supply chain that PBLIS currently does not regulate in the same way truck servicing is, such as empty container parks and data. Option B includes potentially more substantive changes to the PBLIS arrangements and also poses the question of how these options might be implemented, either voluntarily by industry or via regulation.

OPTION B	TITLE
B9	**No booking until discharge –** Implement a booking system that allows container pick up scheduling once the container has been discharged from the vessel.
B10	**Points systems –** Apply penalties and/or booking fees via a points system.
B11	**Differential pricing of time zones –** Apply different prices to truck time zones - with peak periods priced higher than off-peak.
B12	**Certified transport operators –** Introduce a certification requirement for transport operators, as applied in other ports internationally.
B13	**Empty container storage facility data transparency -** Require empty container storage facility data and make this publicly available, and require empty container redirections in EDI format.
B14	**Freight Community System (FCS)** – Progress development of FCS Strategic Business Case and if positive, develop a phased implementation plan and proceed as a high priority.
B15	**Second Truck Marshalling Area (TMA) –** Investigate further the need and timing for a second truck marshalling area and if required, options for its development.
B16	**Non-government implementation of PBLIS –** Consider enabling NSW Ports to administer PBLIS and TfNSW contracting NSW Ports to manage the TMA and ANPR cameras.

3.3.1 Option B9 – No booking until discharge

Vehicle Booking Systems (VBS) are the systems used by stevedore terminals to manage truck bookings for container pick up and delivery. The current system at Port Botany provides one-hour slots for trucks to arrive within to collect or deliver one container, with adjacent slots booked for collecting or delivering multiple containers per trip.

Currently, slots are required to be released for bookings at least two working days[23] in advance. Stevedores provide three days of free storage for containers unloaded from vessels in the terminal[24], after that time daily storage fees are applied to incentivise carriers to pick up containers as soon as possible, to gain prompt access to goods for their customers and avoid paying storage costs. Stevedores are incentivised to ensure containers can be removed from terminals to avoid congestion and maintain efficient operations.

Carriers book slots based on when the container is expected to be available to be picked up or when it is scheduled to be delivered to the port for export. Under the PBLIS rules, carriers are able to cancel slots 24 hours prior to the allocated time without penalty. They can also cancel slots without penalty between 24 hours and 12 hours prior to the slot time, provided another carrier books the slot after it is returned to the system.

There is very high demand for slots in peak time zones (weekdays, during the day), with more availability in shoulder periods and off-peak times.

Slot hoarding

The current booking method results in what is colloquially known as the 'mad minute'. Carriers compete simultaneously to book slots at their preferred times. This results in overbooking slots and practices known as 'slot hoarding' where carriers book more slots than are needed or hold slots until the very last moment before a penalty applies, to accommodate scheduling changes and meet operational needs.

The current carrier booking cancellation rules[25] can mean slots in peak times end up unused, as other carriers may have already scheduled required slots and are not able to take up the slots at short notice (between 24-12 hours before the start of the time zone) due to penalties for cancelling existing bookings.

The Deloitte Report states that PBLIS has not been effective at reducing slot hoarding, noting:

- Road operators will book more slots than they need to mitigate risks and ensure they have the slots to meet operational needs, at the cost of overall efficiency.
- Overbooking of slots is not unique to Port Botany and it cannot be suggested PBLIS is responsible for this behaviour, although it may exacerbate it.
- The ability to cancel slots creates administrative complexity as road operators need to constantly monitor the VBS in case additional slots are returned to the system.
- This results in under-utilisation of slots as road operators struggle to adjust operations and are disincentivised due to potential penalties applying within this short window of time.[26]

23 A working day is a day during which stevedore truck services were performed, or available to be performed for 12 time zones or more, under the Mandatory Standards

24 Storage commences on the first day all containers are unloaded from the vessel.

25 Bookings can be cancelled by re-listing in the booking system. Re-listing 24 hours before the time zone, or between 24 and 12 hours before the time zone if another carrier takes up the slot, does not incur a penalty

26 Deloitte Access Economics 2022, PBLIS Industry Behavioural Research, Sydney, NSW, pp. 24, 25, 27

Stack runs

To address slot booking issues that make it administratively challenging to book several slots in one day, stevedores provide a stack run option for carriers requiring access to large volumes of containers. These are serviced outside of the VBS and therefore avoid the 'mad minute' booking process. Stack runs are provided based on a set number of containers over a specified time period, usually a number of hours. Carriers are provided with any container destined for that carrier, rather than specifying which container they want to pick up first.

As noted in the Deloitte Report, efficiencies gained by the use of stack runs are negatively impacted by the focus on truck movements under PBLIS. Transport operators reported that stevedores often reassign resources towards PBLIS trucks[27].

Alternate booking approach

As outlined in the Advisian Report, a booking approach called 'Advanced Booking' is in use by the Victoria International Container Terminal (VICT) at the Port of Melbourne, by DP World at the Port of Brisbane (provided by 1-Stop) and at the two terminals at the Port of Manila. Under this system the container must have landed at the terminal (i.e. been unloaded from the vessel) before it can be booked for pick up. This means that containers become available for booking over the time period it takes to unload the entire vessel, not all at one time. In preparation for container pick up under the Advanced Booking system, pre-planning can occur for all parties, including:

- The carrier can upload a list of upcoming import and export containers to the Advanced Booking portal. The carrier can then monitor the status of the import containers at the terminal (for example, expected time to be landed, if a container has been landed, which module a landed container is placed in).
- The carrier can attach additional information to the container such as a group code. This can be useful if some containers are all going to the same destination or need to be collected first.
- The terminal can see the information uploaded by the carrier and can use this to locate containers which have been grouped in one part of their terminal, to allow loading from a single module.
- The terminal can submit the estimated time of discharge for containers to the VBS. For registered containers this information will appear in the carrier's container list, indicating when they will likely be able to book the container to a slot.

All of these processes have the potential to be automatically advised via alerts from the booking system. When containers are discharged the carrier can book a container directly to an available slot and depending on slot availability the carrier can choose to pick up multiple containers within a single module at the same time, potentially also dropping off containers on the same trip to maximise productivity.

In Melbourne VICT submits estimated times of discharge for import containers to the VBS every 30 minutes, indicating to carriers when they will likely be able to book their containers to a slot. Advanced notice is also provided by DP World in Brisbane[28].

Advanced booking systems can support efficient stevedore operations, particularly those with automated equipment such as stacking cranes and module split yards with dedicated equipment and more generally, by potentially reducing double handling of containers and by allowing better planning of where to place containers in their terminal.

27 Deloitte Access Economics 2022, PBLIS Industry Behavioural Research, Sydney, NSW, pp. 42, 47
28 Advisian 2022, PBLIS Comparison Study, Sydney, NSW, pp. 15, 111, 141, Appendix A

As noted in the Advisian Report, a benefit for carriers is they only book slots when required and not in expectation that the containers will be ready. This reduces wasted slots and avoids slot hoarding. Early notification of expected discharge times also supports equitable carrier access to slots. In Brisbane, no issues with the availability of slots after landing in the yard were reported.

A potential disadvantage in a busy terminal is that once a container has been discharged, a booking slot may not be immediately available, especially in peak periods, as containers released earlier are likely to have already been booked in. This could mean that the time between the container being ready and the next available slot is longer than preferred.

Another disadvantage might be the removal of the flexibility that exists in the current system where slots are booked based on preferred time zones rather than specific containers. At present, if a container is not available for collection it can be swapped for another anywhere in the terminal, or a higher priority container can be swapped for a container that was previously booked[29].

Stakeholder feedback

In their feedback, some stakeholders supported the introduction of a booking system like that operating at VICT and DP World Brisbane to improve efficiency for both carriers and stevedores.

A stakeholder suggested system changes to align slot allocation with actual container collection requirements, while other stakeholders wanted to better understand the rationale for advanced bookings and raised unspecified concerns about the adoption of this booking system at Port Botany, noting there are differences in the markets between Brisbane and Sydney.

The need to review the VBS to better accommodate multiple containers and two-way loadings to support efficiency at the port was also raised.

Benefits

- Remove the ‘mad minute’ booking process where carriers compete at the same time for slots.
- Remove ‘slot hoarding’ as carriers could only book containers that are available.
- Improve terminal efficiency and productivity by supporting better planning for container locations, for example, containers for specific carriers can be unloaded to one location in the terminal.
- Reduce administrative effort for carriers as there is no longer a need for continual monitoring of the VBS to check for the opening of more slots or the return of preferred slots to the system and rescheduling when vessel times change.

Challenges

- The time between a container being ready and the next available slot might be longer than preferred, especially during peak times, with containers potentially spending longer on the terminal.
- Carriers cannot swap containers between slots that are in different modules or from any position in the terminal (if an advanced booking system is applied in an ASC-based terminal).

Implementation options

Under the current PBLIS arrangements there is no restriction on applying a no booking until discharge approach. However, if applied under the Mandatory Standards

29 Advisian 2022, PBLIS Comparison Study, Sydney, NSW, pp. 14, 23, 112, 141, 164, Appendix A

regulated approach, updates will be required as the Mandatory Standards are very detailed and designed based on the current approach, and some specifications will not be suitable.

PBLIS Option B9: No booking until discharge – Implement a booking system that allows container pick up scheduling once the container has been discharged from the vessel.

3.3.2 Option B10 – Points systems

Under PBLIS, regular penalty payments are made between stevedores and carriers (when penalties are incurred), and carriers pay fees to access the terminals to the stevedores. An alternate system used to administer stevedore fees and PBLIS penalties could simplify or reduce the effort involved in this transfer of funds between parties.

Examples of other approaches and systems, including those suggested by stakeholders include:

- A Port of Manila style points system.
- Demerit points approach with quarterly of half-yearly performance reconciliation of payments between parties.
- Monthly reconciliation of penalties between parties.

Port of Manila points system

A points system operates at the Port of Manila[30] in the Philippines which handled 3.1 million TEU in 2020, split evenly between imports and exports. The system utilises the pre-purchase of points that are then used to book truck slots and pay late arrival fees[31]. The Port of Manila has two international container terminals – Manila International Container Terminal and Asian Terminals Inc.

A VBS was implemented in 2014 by the terminal operators, the Philippine Port Authority (government) and port stakeholders, as a collaborative solution to address road congestion in the city, maximise efficiency of the delivery and collection of containers, enhance the terminal operating guidelines and standardise fees.

Road congestion in Manila has been an issue for over a decade. A portion of this congestion can be attributed to trucks travelling to and from the port. Various traffic bans were introduced to reduce congestion, including for trucks on certain days and times. The introduction of the VBS and associated Points Payment System (PPS) aimed to further encourage greater use by road carriers of medium and low demand periods during the week.

- Each booking zone is one-hour and is assigned one of four 'demand categories' covering high, medium and low demand periods across the time of day and day of week. Each demand category has different rules and fees. Medium and high demand zones incur a fee, while for other off-peak demand zones the booking is free or provide users with a rebate to incentive their use.
- The financial value of the points is clear – with 1 point equivalent to 1 Philippine Peso.
- Points are purchased in advance of making bookings removing the need for stevedores to invoice for each booking or late arrival fee.

30 The Port of Manila uses an 'Advanced Booking' system
31 Advisian 2022, PBLIS Comparison Study, Sydney, NSW, pp. 85-102

Stakeholder feedback on this system when the PPS was introduced was that it was generally positively received, with the below specified:

- The point system has simplified the transaction processes in the VBS with points easily purchased through the various methods. The increased transparency the VBS and PPS provide to fee rates and payment transactions is an improvement.
- Concerns from some that buying points in advance via the VBS, without getting any interest, provided the port with additional interest benefit that the users wouldn't receive.
- When the PPS was introduced, some criticism was that users didn't have control over penalties imposed through the PPS. For example, if a truck fails to show up or arrived late after their booked appointment, the system automatically deducts the penalty for the no-show without consultation with the user.
- The terminal can waive fees for late arrivals or no shows. It is understood that active communication between the terminal operator and the carriers when one or the other is having delays has been key to managing the landside operations efficiently.

A carrier must have sufficient points in their account before a booking can be created. An account may go into negative if late fees are applied however, the account would need to be in credit prior to new bookings being made.

Periodic reconciliation of penalties between parties

The payment of penalties could be reduced in frequency by applying a period reconciliation approach. For example, penalties could be reconciled on a monthly or quarterly basis (or another time frame) with relevant parties only transferring the balance required to be paid. This would likely reduce the invoicing of penalties and therefore the flow of funds between parties.

It would likely not be suitable for application to stevedore charges as there would be a delay in these payments from the current arrangements. While reducing the frequency of financial transfers it would however not reduce the administrative effort of determining whether a penalty is owed.

Demerit points approach with periodic reconciliation

A demerit points style system could be applied to transport operators and stevedores.

At quarterly or half-yearly intervals, the performance of individual container terminals could be compared with the on-time performance of individual transport operators against the demerit points incurred. Ultimately, such a system could still involve a financial penalty payment between the parties.

Stakeholder feedback

Stakeholder feedback pointed to the high level of administrative effort required to operate under the PBLIS regulation and suggested various ways of addressing this from removing PBLIS to overhauling the current approach. A stakeholder suggested replacing the current financial penalty system and the time-consuming invoicing cycle, with a system of performance reviews conducted over a longer periodic timeframe.

Benefits

- Simplified and reduced transaction processes and reduced administrative effort for the payment of fees and/or penalties under a points system or period performance assessment.
- For the stevedore, upfront payment and reduced following up of unpaid fees and penalties if using a points approach.

- A points cancelling out approach may reduce administrative effort where points balances are tallied quarterly and paid to at that time.

Challenges

- No reduction of administrative effort to determine whether penalties should be applied.
- Advanced purchase of points provides the terminal operator with additional interest benefit that the carriers lose if not compensated.
- Users may have less control / ability to appeal or consult over penalties imposed if reconciliation occurs further from the event.

Implementation options

Models like these could be implemented voluntarily by industry without regulation or the application of a port wide points system could be mandated, however pricing would not be regulated.

PBLIS Option B10: Points systems – Apply penalties and/or booking fees via a points system.

3.3.3 Option B11 – Differential pricing of time zones

Stevedores currently price landside fees at the port equally across all time zones. Differential pricing is an approach where prices for the same product or service are different based on factors that drive demand, such as time of purchase or use. This approach can also be called flexible pricing or variable pricing.

There are various methods for applying differential pricing, including setting charges at different rates (peak and off-peak) and market mechanisms such as auctions, which allow the market to determine the different prices (which could vary over time).

The CBA shows there has been a very limited shift towards 24/7 port logistic chain operations, noting that bottlenecks outside of the port contribute to the significant demand for peak hour slots, such as local council regulations and working hours of other parties in the supply chain[32].

The introduction of differential pricing of landside truck slots at Port Botany, with peak periods priced higher than off-peak periods, could encourage increased access to the port in off-peak times to support 24/7 landside operations. The CBA suggests "shifting to a 24/7 operating port could result in some businesses and their supply chains extending their business hours to accommodate deliveries."[33]

It is expected that the application of a differential pricing approach would be revenue neutral (not result in significant changes in respect of overall revenue), as it would likely involve a combination of higher pricing for peak period slots, offset by discounted pricing for off-peak slots. This is because stevedores are currently open 24/7 (or 24/6) and there is a lot of off-peak capacity before there is any upward pressure on costs.

International examples of differential pricing

The Advisian Report outlined differential pricing for slot times is used in the Ports of Los Angeles and Long Beach in the United States, the Port of Manila in the Philippines and the Port of Tauranga in New Zealand.

32 Castalia 2022, Cost-Benefit Analysis of PBLIS Performance, Sydney, NSW, p. 23
33 Castalia 2022, Cost-Benefit Analysis of PBLIS Performance, Sydney, NSW, p. 35

The Ports of Los Angeles and Long Beach apply an additional fee for port access during peak periods that is provided to terminals to cover the cost of operating the landside interface in off-peak periods, helping to decrease congestion during peak hours. The Port of Tauranga applies peak and off-peak rates to its landside container handling fees.

The Port of Manila operates a differential pricing approach applied via a pre-paid points system. Prior to the introduction of a VBS, there was significant traffic congestion, with accessibility and availability of information on the status of containers only available on a computer just outside the terminal gates. As noted in **PBLIS Option B10**, four demand categories are now applied with different rules and pricing for each. The two terminal operators allocate the categories differently through the day and across the week, including free times and rebates applied on Sundays (an additional incentive exists for bookings that include both an export/import with the import booking also free of charge). Rebates are credited to an account after each transaction is completed.

The Advisian Report also noted that the VICT in Melbourne had consulted with industry on a differential pricing model where weekend slots would be offered at a discounted rate to encourage off-peak bookings. The feedback indicated it was unlikely that the discount offered would be a high enough incentive[34].

Auction of slots

The 2008 IPART report that preceded the introduction of PBLIS recommended a two-tiered vehicle booking system with different prices and parameters for peak and off-peak times, to help address congestion at Port Botany[35]. This is an example of a differential pricing approach applied via an auction mechanism for pricing slots with the market driving the price based on demand. Auctions can be applied in various ways and would allow the market to allocate stevedore access prices based on supply and demand for services at different times and days of the week.

IPART's recommendation was for the stevedores to independently introduce a two-tiered VBS, and include both 'firm' slots and 'interruptible' slots:

- The 'firm' slots would carry a guarantee relating to the time of entry and the time of exit from the terminal.
- The 'interruptible' slots would have the same features as current (at the time) VBS slots, including the booking system, prices and penalties.
- Each stevedore would determine the number of firm and interruptible slots to be provided for each 24-hour day.
- The prices for firm slots would be determined by separate descending bid auctions (or 'Dutch' auctions) for each stevedore.

In a Dutch auction, the offer price begins at a high level (a certain dollar amount per firm slot) and then descends in fixed time increments (such as every five seconds), with bidding at any point for one or more slots at the prevailing price level. The auction only stops when either:

1. the number of firm slots bid for at the current price exactly equals the number offered for that hour,
2. the number of firm slots bid for at the current price exceeds the number offered for the first time, or
3. the current price has reached the reserve price.

34 Advisian 2022, PBLIS Comparison Study, Sydney, NSW, p. 14-15, 90-93, 120, 154
35 IPART, 2008, Reforming Port Botany's links with inland transport, Sydney, NSW, pp. 4-9

A number of different outcomes could then arise, depending on which of these scenarios stops the auction. For example, if the price reaches the reserve price (scenario 3), all bidders at the reserve price receive the firm slots they bid for at the reserve price. All unsold firm slots at the reserve price are then converted to interruptible slots and allocated accordingly[36].

IPART considered that this method of allocation would create peak hour slots with higher service guarantees attracting higher prices which would in turn encourage more off-peak hour bookings, thereby reducing congestion and inefficiency.

At the time, industry was not supportive of implementing a Dutch auction system, with price uncertainty and system complexity being the key concerns. The implementation of an auction system would require examining the most appropriate auction designs, and considering, as outlined in the IPART Report, the use of reserve pricing, conversion of unsold firm slots and the necessity for separate auctions at each stevedore, as well as the responsible entity and method of collecting, holding and distributing auction proceeds[37].

While industry was not supportive of the IPART auction proposal at the time, some stakeholders did support a pricing mechanism to encourage off-peak operations. When PBLIS was introduced, the NSW Government envisioned the introduction of peak period pricing, or a 'Demand Management Scheme' to incentivise 24/7 operations, but this was not implemented.

Implementing an auction method would be a complex approach to develop and implement between relevant industry parties, with factors such as measures to prevent manipulation of an auction market also needing to be considered. Given the potential benefits for incentivising 24/7 operations, it may be appropriate to consider an auction approach further in future.

However, considering the current level of market maturity and the relationships between parties in the supply chain and the potential for manipulation, it is not expected at this time that an auction approach would be suitable.

Stakeholder feedback

Some stakeholders suggested applying different penalty rates as a method for incentivising truck spread throughout each day and during the week. Specifically, heavier penalties during peak times and or reduced penalties for night-time operations to incentivise increased use of night-time capacity.

Benefits

- Encourage an increase in off-peak port access to support 24/7 operations and reduce peak demand.
- Encourage innovation as price signal may encourage transport operators and other businesses to consider changes to operations to access the port in off-peak times.
- Higher revenue from landside servicing during peak times can fund off-peak discounts and support resourcing of off-peak times.
- Improved utilisation of stevedore landside infrastructure in off-peak times.

Challenges

- Other parts of the port supply chain are not operating 24/7, constraining 24/7 landside operations at the port.
- Users with limited ability to access off-peak times could face higher costs.

36 IPART, 2008, Reforming Port Botany's links with inland transport, Sydney, NSW, pp. 166, 181
37 IPART, 2008, Reforming Port Botany's links with inland transport, Sydney, NSW, pp. 158-177

- Stevedore operations structured to accommodate current demand patterns would require change.
- Additional costs may be associated with off-peak labour, but some labour is already employed off-peak and is currently under-utilised.

Implementation options

There are no regulatory barriers to the application of differential pricing. As it is preferrable to leave these decisions to the market wherever possible, voluntary adoption by stevedores of a differential pricing approach is proposed.

Various approaches for voluntary application of differential pricing are available, such as discounting off-peak charges to incentivise 24/7 operations, setting higher fees for peak period slots to offset costs of off-peak operations and nominating variable pricing across different times and days of the week, as applies in the Port of Manila.

PBLIS Option B11: Differential pricing of time zones – Apply different prices to truck time zones - with peak periods priced higher than off-peak.

3.3.4 Option B12 – Certified transport operators

Internationally, a number of ports investigated apply a certification requirement or Truck Licensing System (TLS) to the truck operators to grant port access. This gives the port a level of control over the trucks servicing the port task. As well as any vehicle requirements, truck operations standards could also be applied to assist with ensuring compliance with port operator directions for port roads.

At Port Botany there is currently no certification requirement or TLS for truck fleets engaged in the container transport task. Introducing a certified transport operator requirement could support port efficiency by ensuring truck operators meet performance standards.

The Advisian Report outlines a number of ports that apply truck licensing systems that are usually designed to encourage greater use of more modern, efficient, safer and environmentally friendly truck fleets, and also to enforce the use of port-related technology such as VBS and GPS tracking. These examples are outlined below, along with the relative size of the container task for each port, in TEU per annum[38].

Vancouver (Canada)
(3.5m TEU)

The Canadian Federal Government introduced a TLS for all Canadian port authorities. Two key elements at Vancouver are the use of access agreements (requiring truck registration and the use of VBS) and a rolling truck age program (requiring trucks to be less than 10 years old). Long-haul trucks can enter the port with an advanced registration and are not required to use the VBS. Other key initiatives at the Port of Vancouver require the use of GPS on all port licensed trucks. Only carriers with five or more trucks are eligible for registration under the TLS. These programs have resulted in a reduction in the number of registered carrier companies accessing the port from 2,000 to 85.

Ports of Los Angeles and Long Beach (United States)
(9.2m TEU, 8.1m TEU)

Port registration and licenses are required for carriers to operate within the port precinct. The Clean Truck Program requires carriers to replace older trucks working at the ports. To obtain a port license, a carrier must meet several obligations including being equipped with a Radio-frequency

38 Advisian 2022, PBLIS Comparison Study, Sydney, NSW, pp. 39, 45 and 165-168

identification (RFID) tag or other technological identification method provided by the port, using a VBS and abiding by clean truck regulations. The clean truck program and the registration requirements have resulted in only the larger carriers having access to the ports.

Northwest Seaport Alliance Ports of Seattle and Tacoma (United States) (3.3m TEU)

The Northwest Seaport Alliance Clean Truck Program requires a port license for access, vehicles with engines less than 10 years old, all trucks be equipped with a RFID tag and that all bookings are made through the VBS. The alliance is offering a USD $10,000 grant to registered carriers to upgrade their engines to meet the Clean Truck Program guidelines.

New York and New Jersey (United States) (7.6m TEU)

The Port Authority of New York and New Jersey requires all trucks accessing the terminals to be registered with the port. Requirements for registration are a valid identification card, commercial driver's licence, insurance and driver registration with the Port Authority of New York and New Jersey. Truck engines must also be less than 10 years old.

Rotterdam (Netherlands) (14.3m TEU)

The port, local government and Ministry of Infrastructure introduced the Maasvlakte Air Quality Agreement 2008, which created access requirements to enter Maasvlakte (the area of the port with the deep-sea container terminals). To improve the air quality in the local area, trucks that enter this area are subject to additional requirements for registration, including fitting of an engine less than seven years old and rated to required emission standards.

Stakeholder feedback

A stakeholder recommended that Performance Based Standards (PBS) vehicles[39] be promoted as the road freight vehicle of choice in Port Botany, for their safety, environmental and productivity benefits.

Benefits

- Increasing the use of more modern truck fleet at the port that is more efficient, safer and environmentally friendly could increase productivity and provide environmental benefits.
- Streamlining the number of individual transport operators / companies accessing the port could improve port efficiency (increased use of staging of containers via rail could shift some of the container task to intermodal terminals (IMTs)).
- Could support adherence to port operator directions for port traffic management (see **Act Option 5** for further details) by making this a condition of the licence, repeat breaches of port operator directions could result in the licence being suspended or revoked.

Challenges

- Changes to truck fleets would need to be implemented over time to avoid high costs to operators and ensure no impacts on the port task.
- These requirements could impact on some operators currently accessing the port.

39 PBS vehicles are designed and built to perform their tasks as productively, safely and sustainably as possible, and to operate on road networks that are appropriate for their level of performance – there are four levels of PBS classification.

Implementation options

A statutory licensing regime applying requirements for the trucks that access the port could be implemented by government. The implementation of any licensing scheme at Port Botany would be subject to broad industry consultation and consideration of the impacts of any performance, equipment and technology upgrades that may be required.

PBLIS Option B12: Certified transport operators – Introduce a certification requirement for transport operators, as applied in other ports internationally.

3.3.5 Option B13 – Empty container storage facility data transparency

Empty container parks (ECPs) provide storage facilities for empty containers before they are either provided to exporters to pack with goods for export, or exported overseas as empty containers. In NSW, when imported freight is unpacked the majority of empty containers, that are owned by the shipping lines, are returned to a nominated ECP.

A key driver of inefficiencies in the management of empty containers is the large trade imbalance. Full import containers at Port Botany exceed full export containers by a ratio of 2.5 to 1, resulting in a surplus of empty containers. Around 60 per cent of containers exported from Port Botany are empty. There are 13 main empty container storage facilities in Sydney, most of which are within or close to the Port Botany precinct. At times, the empty container parks at Port Botany can become full, leading to issues for transport operators trying to return empty containers to the park they're directed to by shipping lines.

The Deloitte Report noted issues with the operation of ECPs, including that they only operate during the day and that road operators are currently hesitant to fully utilise empty container storage facilities before a stevedore slot unless TTT and reliability within the empty container storage facilities are improved, reducing the risk of a PBLIS penalty[40].

There is currently no public visibility of ECP performance, as data is not collected by government or made available by industry.

Empty Container Working Group (ECWG)

In 2020, a range of factors impacted the empty container flow, including COVID-19 pandemic related trade fluctuations, bad weather events, and industrial disputes at Port Botany. In response, an Empty Container Working Group (ECWG) was convened as a temporary measure on the understanding that, if the group was unable to identify effective industry-led, voluntary solutions, government would explore regulatory options.

Established in July 2020 by TfNSW, the ECWG includes representatives from shipping lines, stevedores, empty container park operators, road transport operators and key freight industry groups.

Over the time it has operated, the ECWG has enabled a number of effective initiatives to improve empty container supply chain efficiency. A key achievement has been to implement monthly reporting against nine key metrics based on data shared by group members. These include the ratio of import to export containers (the load discharge ratio), dwell time and utilisation at ECPs, and number of direct returns to stevedores.

Sharing this performance data has improved visibility and communication across the supply chain and has helped operators with forward planning. However, data has not been provided consistently by all parks and in a timely manner.

40 Deloitte Access Economics 2022, PBLIS Industry Behavioural Research, Sydney, NSW, p. 42 and 67

The ECWG has enabled a number of other effective responses, including:

- Supporting a temporary exemption to the Three Ports SEPP[41] to increase container stacking heights in the Port Botany area.
- Increasing the use of electronic delivery orders.
- Facilitating discussions between supply chain members to improve evacuation rates and empty container storage capacity.
- Extending empty container park operating hours to maximise efficiency.
- Increasing booking window adherence for deliveries to empty container parks to reduce congestion.
- Improving the use of direct return empty capacity at stevedores.
- Investigating alternative empty container storage facilities in Greater Sydney.

In 2021, the empty container congestion problem eased as shipping lines evacuated large numbers of empty containers. Volumes at ECPs reduced to more operationally efficient levels and the load discharge ratio for Port Botany has consistently been close to 1 since.

Following strong support from industry stakeholders, the ECWG has now transitioned to an ongoing forum.

Electronic systems

The use of electronic systems at ECPs and connections between the systems of individual parks could be improved to support the efficiency of the port supply chain. There is also a reliance on manual processes for some parts of the empty container supply chain, including some shipping lines that don't use EDI and manual processes for the redirection of empty container returns.

While the ECWG has resulted in the increased use of electronic delivery orders by shipping lines, they are not comprehensively used. The manual redirection method is inefficient, with this process completed via a number of emails that require manual scanning by transport operators to filter through lists of new container return locations, to find out where to return specific containers for each shipping line. Given the constrained capacity in empty container storage facilities in the port precinct and the preference of shipping lines to store empty containers near the port, there can be significant numbers of redirections, particularly in peak times.

Redirections to other empty container storage facilities can also lead to invoices from empty container storage facilities for booking cancellations for the original bookings, leading to further manual administration for transport operators seeking credit notes.

NSW Ports Empty Container Incentive Scheme

The NSW Ports Empty Container Incentive Scheme (ECIS) commenced 1 July 2021 with the wharfage rate for empty exports calculated based on the shipping lines' individual load/discharge ratio (the balance of full or empty imports unloaded at Port Botany versus the number of exports of full or empty containers). Introducing the scheme NSW Ports advised:

> *"NSW Ports has also incurred substantial costs in addressing empty container supply chain issues, including a $4 million investment in 2020 in additional empty container capacity at Port Botany and ongoing costs to safely manage trucks queuing at Port Botany waiting to access congested empty container parks. In addition, NSW Ports has committed a further $16.7 million to develop additional empty container capacity at Port Botany in the next 24 months.*

41 State Environmental Planning Policy (Three Ports) 2013 - http://www5.austlii.edu.au/au/legis/nsw/consol_reg/seppp2013496/

Developing additional empty container storage capacity on scarce port land is not sustainable in the long term, as the volume of empty containers is forecast to grow. Reducing the time that empty containers remain in Sydney is key to catering for NSW's growing trade volumes."[42]

Empty container data

Section 108 of the Regulation, a recent amendment to the Regulation allows the Minister to require empty container storage facilities to provide operational data to TfNSW. This was introduced in response to stakeholder feedback, including through the ECWG. A data direction has not been issued to date, but this change to the Regulation provides the potential to obtain consistent and complete data for visibility of this part of the supply chain.

The collection of performance data for empty container storage facilities will enable better understanding of this part of the supply chain. To provide transparency and to support industry understanding, this information should be made publicly available. Support for expanding data collection to include empty container storage facilities was noted in the Deloitte Report, to improve overall visibility[43].

Stakeholder feedback

A range of feedback related to ECPs was raised, including:

- Some stakeholders proposed that ECPs be brought under PBLIS or a similar scheme to improve bottlenecks, while others advised against PBLIS style regulation to retain flexibility and avoid inefficiencies (if meeting booking times to avoid a penalty resulted in transport operators building in more buffer time).
- Mandating the provision of data to improve planning, enabling data sharing capabilities across systems to connect different parties, and requiring shipping lines to provide Electronic Import Delivery Orders (EIDO) to ECP booking service providers to facilitate improvements to redirections.
- Stakeholders noted some empty container storage facilities are not operating 24/7 and that this impacts transport operators' ability to operate outside daytime hours.
- Opening the TMA to trucks accessing empty container parks and then calling them forward to smooth arrivals and avoid congestion on roads was suggested.

Options for empty container management

In line with the Better Regulation Principles the need for government action should be established and should only occur when it is in the public interest. In the first instance, data on ECP performance should be sourced by TfNSW to allow a comprehensive understanding of this part of the Port Botany supply chain. Making this data publicly available would allow industry the benefit of this understanding, to support voluntary improvements to empty container management, before any further consideration of the need, for government intervention.

One area of inefficiency that could be addressed by government is the empty container redirections process. Given the importance of these movements and potential benefits for overall port efficiency by facilitating where possible dual loading,[44] ECPs should be required to provide redirection notices in electronic form. This would streamline this flow of information and remove administrative burden for transport operators.

42 NSW Ports 2021, Port Botany Empty Container Incentive Scheme, https://www.nswports.com.au/empty-container-incentive-scheme-update#:~:text=%E2%80%8BNSW%20Ports%20is%20committed,empty%20container%20congestion%20in%20Sydney.

43 Deloitte Access Economics 2022, PBLIS Industry Behavioural Research, Sydney, NSW, p. 11

44 Dual loading, also referred to as dual runs, occur 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. This means fewer truck trips are required to service the same amount of containers.

Benefits

- Regulating the provision of empty container storage facility data would ensure consistent data is provided by all relevant empty container storage facilities and inform analysis of inefficiencies, and current and future issues.
- The impact of the data provision on ECPs is likely to be minimal as it would only require access to existing booking data.
- Public access to this data would inform industry supporting non-government solutions.
- In the future, access to this data would support a FCS (see **PBLIS Option B14**).

Challenges

- There may be operational impacts (additional work and potential costs) for ECPs to change how redirections are provided.
- Some shipping lines may resist dwell and capacity information being shared as may ECPs as performance between different operators will be comparable.

Implementation options

These two options would be implemented via regulation, utilising the existing ability for the Minister to require data from empty container storage facilities and also requiring empty container storage facilities provide information in electronic format. Consideration would be given to what information is suitable to make public, ensuring commercial information is not compromised, while providing transparency wherever possible.

PBLIS Option B13: Empty container storage facility data transparency - Require empty container storage facility data and make this publicly available, and require empty container redirections in EDI format.

3.3.6 Option B14 – Freight Community System

A Freight Community System (FCS) is an electronic platform that enables freight network supply chain businesses to rapidly and securely exchange information with other businesses through a common interface, facilitating commercial interactions. These systems are typically neutral and open electronic platforms that are independent of established supply chain interests to enable trusted, end-to-end visibility of the supply chain, supported by appropriate governance, regulatory and funding arrangements.

A FCS would improve trusted data sharing, exchange and storage for freight movements in NSW, facilitating the operational movement of freight.

This world leading capability would provide the trusted digital infrastructure backbone to existing hard infrastructure assets and incremental future investments, and enable industry collaboration to optimise freight movements in Australia.

In 2019, TfNSW commissioned an initial scoping study to explore the feasibility of a Port Community System (PCS) for NSW and enhance data exchange between sea freight businesses. While significant benefits were identified that could be realised for the port sector alone, the scoping study highlighted that the freight supply chain is interconnected and encompasses road, rail, air and intermodal terminals.

TfNSW, along with consistent feedback from government and industry stakeholders, recognised that developing a PCS in isolation to other modes could miss significant opportunities to improve the efficiency of freight overall. The need for a system to

integrate with other government elements as well as interstate movements was also recognised. It was for these reasons that the PCS initiative was expanded to a FCS.

Consultation with industry and government in 2021 to support the development of the Strategic Business Case for a FCS confirmed that data sharing between NSW freight businesses faced various issues. Addressing these issues could support the efficient functioning of the NSW supply chain and reduce the costs of doing business. These issues include:

- **Complex, manual and duplicative business to business freight processes:** Freight sector processes used to generate and record business to business transaction data are low-tech and manual for many freight businesses. These processes are slow and often duplicated, leading to inefficiencies, risk of error and adding additional costs to trade which can undermine international competitiveness.
- **Lack of common data standards and methods for exchanging commercial freight data:** There is no standard language for communication between parties in the supply chain network, resulting in inefficiencies from the interpretation of different data formats. There is also no commonly accepted method for exchanging freight data, which is passed across various modes, such as emails and phone-calls, necessitating ongoing monitoring and increasing the potential for errors.
- **Competing freight sector interests and information asymmetries:** Businesses have developed systems and processes to serve their own activities. Consequently, data tends to sit in commercial silos and inefficiencies, including information asymmetries, are common and in some instances are used for commercial gain. This is an issue for government as the lack of visibility within the supply chain impedes the identification of bottlenecks in the network.
- **Current freight business technology systems vary in maturity:** The variation in maturity and sophistication of systems has resulted in a range of incompatible functionalities and capabilities. This makes strategic planning difficult as data is not always accessible or in a coordinated, usable format.

FCS operation

Individual operators retain their own internal IT systems and programs that are connected to the FCS which is an overarching IT system. The FCS provides relevant information to users that they are authorised to access. Users are able to log in to the FCS to access all the information they require in one IT location. This removes the need for users to log in to multiple systems and replaces the need for email and other communication methods.

The Port Sector and the container journey

The benefit of a FCS includes allowing public and private stakeholders to optimise, manage and automate port and logistics processes, by facilitating commercial interactions between supply chain participants.

For example, Australian container freight supply chains currently suffer significant inefficiencies due to fragmented multi-party transactions, inadequate information sharing and variable IT use. Typical challenges include:

- Container movements can require 120 separate transactions with up to 50 per cent having data items unnecessarily repeated, often manually, increasing error rates.
- Supply chain participants communicate through multiple channels and interact with multiple proprietary IT systems via multiple screens.
- Issue identification is reactive, not predictive, and exacerbated by limited visibility of container identifiers and cargo, at many stages across the supply chain.

The Advisian Report found that:

> *"All the European ports investigated had a Port Community System (PCS). The services offered depends on the engagement from stakeholders and the integrations to the platform. Some services may be accessed through the PCS or separately. The PCS is primarily used for the exchange of information between all parties within the port supply chain. The availability of real-time information about container status and congestion levels (Valencia) has improved the ability of [road] carriers to plan trips to the port. Only the Port of Rotterdam and the Port of Valencia had their respective [truck] booking systems integrated into the PCS. Sharing information through the PCS allows the maximum reuse of information and has reduced the number of communications required among stakeholders by providing a single location for all documentation including to the Harbour Master and Customs."*[45]

Ports in Europe investigated in this study included Port of Valencia (3 terminals and 5.4 million TEU per annum), Port of Rotterdam (5 terminals and 14.3 million TEU per annum) and the Port of Antwerp (5 terminals and 12 million TEU per annum).

Port of Valencia (PAV) example

The Advisian Report advises that the Port Community System at the Port of Valencia was developed by the port operator to provide a technological platform to streamline and facilitate the operating processes in the port community. It noted, "any company can participate in the development and implementation of services. Propriety systems can be integrated with the platform."[46]

For road carriers it is used for planning port arrivals. In the PCS application the driver registers the data for their visit to the port to find out if there are any delays at the terminal. A real time connection to cameras available at the port is also provided so they can estimate the level of congestion on the roads outside and inside the port. Other services of the PCS include:

- **Port Operations -** A single location for all documentation required by the PAV itself and other official bodies such as the Harbourmaster's office and Customs.
- **Inland Transport -** Enables agents involved in the road transport of goods to compile and manage transport orders including cargo acceptance and delivery orders required to transport goods inside the port premises. The platform also provides agents with notifications of the delivery and receipt of containers at the terminal or depot.
- **Customs -** Allows shipping agents to present and amend import and export cargo manifests directly to the PAV and the Spanish State Tax Agency.
- **Track and Trace -** The Cargo Tracking service allows users to obtain track and trace information of their shipments, such as the status of their cargo, transhipments carried out and/or documents processed. The platform also enables users to integrate this information into their systems to present it to their customers.
- **Integration -** Companies handling large volumes of shipping documents prefer to transmit the corresponding data through a direct integration of their management systems, saving the time needed to copy and reintroduce the data in their systems. Development of the PCS is undertaken to continue to integrate with third party systems.

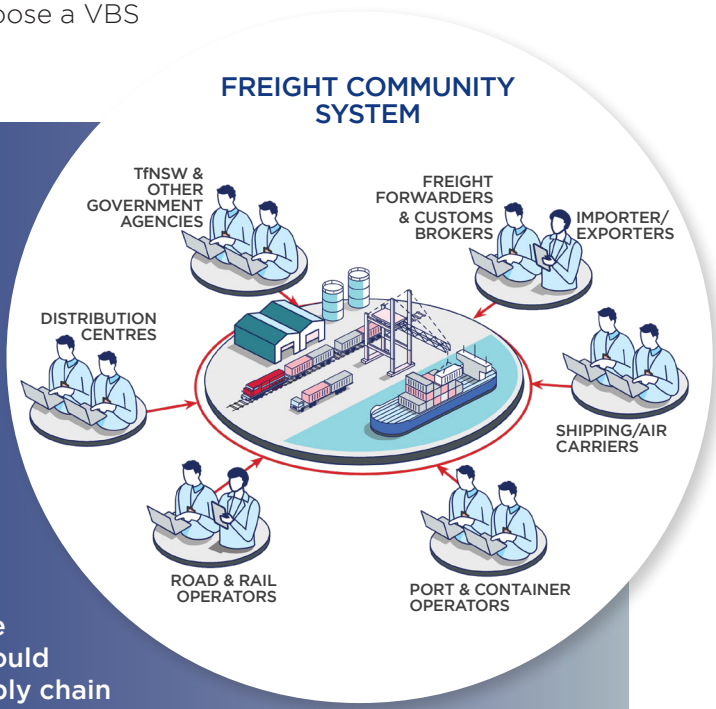
45 Advisian 2022, PBLIS Comparison Study, Sydney, NSW, p 15.
46 Advisian 2022, PBLIS Comparison Study, Sydney, NSW, p. 61

Some future improvements to the PCS at Port of Valencia are:

- An alert system in the PSC application. At present, the application does not allow for instant notification of incidents. Currently, communications to stakeholders involved in port activities are made by email and in some cases by WhatsApp groups. An instant alert system would allow drivers to be informed of any problems and/or delays in real time. The system has been developed and is about to be implemented.
- VBS - The working groups are analysing and discussing the failures that led to the rejection of the system in the first implementation attempt. The aim is to improve the previous version and to re-propose a VBS in the medium term.

FCS Strategic Business Case

Transport for NSW developed a Strategic Business Case for a proposed FCS, which is currently being reviewed.



The project is aligned with direct actions outlined in the NSW Freight and Ports Plan 2018-23, the Future Transport Technology Roadmap and the State Infrastructure Strategy. It supports the NSW Government's vision to be a global transport technology leader and create world-class mobility solutions for the people and communities of NSW. The FCS would incorporate air, road, rail and sea supply chain networks, increasing productivity and efficiency across multiple intermodal points. It would aim to solve operational problems and visibility issues for freight supply chain operators throughout a product's entire journey.

During 2021, TfNSW consulted with stakeholders across the supply chains of air, road, rail and sea as well as the other jurisdictions and Australian Government to identify problems, benefits, technology and governance solutions to inform a Strategic Business Case for the project. The feedback and submissions received have helped shape the Strategic Business Case for a FCS in NSW.

The Strategic Business Case is currently being reviewed and evaluated in accordance with NSW Government guidelines and the NSW Gateway Policy that mandates independent peer reviews at critical decision points in a project's life cycle. Following the completion of the review the next step for the project will be determined[47].

Stakeholder feedback

Some stakeholders expressed support for the development of a FCS, while one stakeholder opposed it stating that it would duplicate existing systems and increase administrative complexity.

47 TfNSW 2021, Freight Community System, www.transport.nsw.gov.au/projects/current-projects/freight-community-system

Benefits

- Lower costs of goods for consumers and higher returns for exporters as efficiency gains delivered in national container supply chains are shared with customers. This is achieved through reduced data entry and errors, simplified back-office processes and automating processes, allowing more effective fleet (vessels, trucks and locomotives) operations.
- Increased visibility of cargo information and status.
- Reduced communication effort between supply chain participants as communication channels are centralised and as a result are more efficient.

Challenges

- A complex system of this scale and scope is likely to require a long lead time to deliver with significant costs to develop and maintain. It is therefore important to ensure that if the decision is to proceed with a FCS, it can be delivered in phases. Industry involvement in the final design of a FCS will be important to ensure that the benefits realised match industry expectations.
- There is a significant number of small, medium and large supply chain operators that all use data for different purposes. Change management will be crucial to bring together Government and supply chain operators to achieve mutually beneficial outcomes and ensure supply chain participation.
- It is recognised that supply chains do not only work within the confines of NSW. It is for this reason that a FCS will need to be scalable and interoperable with other jurisdictions and it is critical for the NSW and Australian Government to work together with key stakeholders to fix both the business to business and business to government issues.
- The data standards that are used in the NSW FCS need to be widely acceptable, implementable and applicable for users in other jurisdictions.

PBLIS Option B14: Freight Community System (FCS) – Progress development of FCS Strategic Business Case and if positive, develop a phased implementation plan and proceed as a high priority.

3.3.7 Option B15 – Second Truck Marshalling Area

Following the commencement of PBLIS, a Truck Marshalling Area (TMA) was established off Bumborah Point Road at Port Botany in 2012 to support landside operations by providing a safe parking area for trucks that arrive early for a booked time zone at the stevedore terminals. Parking or queueing in and around the port precinct is prohibited and could incur parking fines and arriving early to a stevedore would risk a PBLIS penalty. The TMA allows trucks to park for up to one hour prior to the booked stevedore slot.

The CBA found that the current TMA has been a major part of reducing congestion around the port precinct and surrounding roads and provided over $8 million of benefits in 2021.[48] The TMA has also contributed to a reduction in vehicle congestion at stevedore terminal in-gates, and a reduction in illegal truck parking and queuing in the port precinct and on the roads approaching Port Botany. It supports road carriers to manage their fleet and bookings effectively, provides additional capacity for the queuing of early arrival trucks and for incident management including stevedore unforeseen events[49] and to a limited degree a rest area for regional carriers, if required.

48 Castalia 2022, Cost-Benefit Analysis of PBLIS Performance, Sydney, NSW, pp. viii, 39
49 Deloitte Access Economics 2022, PBLIS Industry Behavioural Research, Sydney, NSW, p. 6

When possible, the stevedores do open time zones early, and trucks that have arrived at the TMA are allowed into the terminal early with the TMA management staggering the departure of the early truck to the terminal.

Both the CBA and the Deloitte Report note there is unused capacity at the TMA, with Deloitte specifying that while the TMA is being used for early arrivals by some road carriers prior to the time zone opening, it is typically underutilised once the next time zone is opened.[50] Both reports also note that some carriers still choose to park outside the port precinct (on roads adjacent to the port) rather than use the TMA.

Reasons outlined for trucks parking on roads surrounding the port instead of the TMA include the TMA reaching full capacity on a few occasions, the one-hour time limit at the TMA, Hutchison terminal being located further from the TMA than other terminals and that some trucks are waiting to enter other facilities, such as transport operator and empty container yards, rather than a stevedore terminal.[51] Patrick Terminals is similarly situated further from the TMA than the DP World terminal.

A second TMA in another location in the Port Botany precinct may help address some reasons for trucks continuing to park on roads instead of at the TMA. It may also be required in the future as container volumes grow and the port road transport task increases.

A possible location of the second TMA closer to the Patrick and Hutchison terminals could reduce travel distances within the port precinct for early arriving trucks accessing the Patrick and Hutchison terminals, leading to potential reductions in congestion on roads surrounding the port precinct. It would also provide greater flexibility for road carriers to manage their fleet.

International and Australian examples of parking facilities near ports

The Advisian Report outlines various parking and truck marshalling arrangements at the Port of Rotterdam, Port of Antwerp, Fremantle Ports and the Port of Brisbane. The report notes the Port of Rotterdam has multiple parking and amenity (restrooms, restaurants etc) facilities around the port that can be used for a fee. They are well utilised with an occupancy rate of over 80 per cent. The Port of Antwerp (handles 12 million TEU per year) provides a 210 space parking facility in the port and is constructing additional parking areas at strategic locations in the port area.

At the Port of Brisbane, Patrick Terminals leases a nearby parcel of land at the port where trucks can wait until they are called to proceed to the terminal, leading to very low occurrence of queuing at the terminal.

The Fremantle Port Authority operates a congestion management system in conjunction with a 60 bay TMA, that can be activated by a stevedore if congestion is occurring. At its Fremantle terminal, DP World is currently also developing a TMA within their terminal boundary. The congestion management system is not intended to be used as a general traffic management system.[52]

Stakeholder feedback

Some stakeholders suggested there is a need for a second TMA, that a second TMA could be considered after further assessment of the utilisation of the current TMA and that opportunities to use any surplus capacity (for example, staging of non-container bulk liquid trucks) should be examined.

Benefits

- Reduced travel distance (about 2.5 kilometres) for early arriving trucks accessing the Patrick and Hutchison terminals and possible reduction in congestion on roads surrounding the port precinct.

50 Deloitte Access Economics 2022, PBLIS Industry Behavioural Research, Sydney, NSW, p. 45
51 Castalia 2022, Cost-Benefit Analysis of PBLIS Performance, Sydney, NSW, pp. 18-19
52 Advisian 2022, PBLIS Comparison Study, Sydney, NSW, pp 19, 71, 75-77, 131

- The application of the current TMA benefits to a potentially larger volume of trucks, including a possible decrease in the number of penalty payments.
- Improved routing flexibility and fleet management opportunities for road carriers.
- Early truck processing if stevedores call in early trucks from TMA prior to time zone commencement, when terminal operations are running well.
- Reduced likelihood of trucks parking in residential and industrial/commercial areas outside of the port precinct while waiting for a time slot.

Challenges

- Land availability and suitability of locations.
- Encourages more early arrival of trucks.

Implementation

Consideration of a second Truck Marshalling Area requires a detailed consideration process and development of a Strategic Business Case. This process would consider the demand, timing, location, design and how it would operate.

PBLIS Option B15: Second Truck Marshalling Area (TMA) – Investigate further the need and timing for a second truck marshalling area and if required, options for its development.

3.3.8 Option B16 – Non-government implementation of PBLIS

When PBLIS was established, Sydney Ports Corporation was responsible for implementing this regulation along with the strategic planning and operational management of Port Botany. Following the lease of the port to the private sector (NSW Ports), the functions selected to remain with government were allocated to the Port Authority of NSW (primarily port safety) or TfNSW which was allocated the implementation of the PBLIS Regulation, where it has remained.

TfNSW has oversight of the PBLIS requirements to ensure that all parties are adhering to the Regulation. Activities that TfNSW undertake on a regular basis include:

- Collating operational VBS data from the stevedores and independent truck movement data (collected through Automated Number Plate Recognition (ANPR) technology) to oversee TTT and truck arrival times.
- Checking invoicing information, vessel servicing data and container dwell times to reconcile storage and penalties and ensure compliance.
- Assessing and approving unforeseen event requests by stevedores and transport operators.
- Assessing and approving slot reduction (for planned maintenance known in advance prior to booking) or booking cancellation (unexpected issues that occur after booking but prior to slot commencing) requests by stevedores.

TfNSW also operates the TMA and the network of ANPR cameras in the port precinct. As outlined in **Option B15**, the TMA was constructed to support landside operations by providing a safe parking area for trucks that arrive early for a booking at the stevedore terminals. The ANPR cameras are used to verify stevedore compliance with truck turnaround times and in the instance of queues outside the stevedore terminal to accurately record truck arrival times, and for other purposes such as observing general traffic flows.

The administration of PBLIS requires close involvement in and oversight of the operations of the port landside logistics supply chain. Due to its highly operational nature, the administration of PBLIS may be more appropriately undertaken by the port operator NSW Ports, given its strong focus on port operational efficiency.

Shifting this responsibility to the private sector may mitigate potential inefficiencies or rigidity in the oversight of PBLIS being undertaken by the NSW Government, which is not an operational party in the port landside supply chain. It may allow benefits from aligning the port operator's long-term planning to achieve overall port efficiencies with the ongoing implementation of the PBLIS arrangements. It may also support collaboration between all parties in the supply chain.

NSW Ports is a privately owned company that operates Port Botany (and Port Kembla) under a 99-year lease with the NSW Government and is responsible for:

- Long-term strategic development and planning at the port.
- Leasing port land to the stevedores and other port and logistic operators.
- Shipping access, wharf infrastructure and common user road infrastructure maintenance.
- Security and safety on common port areas.
- Operating control of the multi-user bulk liquids berths at Port Botany.

NSW Ports could be delegated the ability to implement PBLIS and TfNSW could contract NSW Ports, under a service provider model, to manage the TMA and ANPR cameras. NSW Ports has a clear incentive to ensure overall efficiency and productivity at the port and may be better placed to administer PBLIS given its roles of managing the port, being the sub-lessor of port land to the stevedores and providing landside access to the port as the road manager for private port roads. This could mean the private port operator has necessary levers in place to influence port landside efficiency.

Under this framework, TfNSW would retain responsibility for the Regulation, as it is the role of government to administer legislation. NSW Ports staff could be authorised by TfNSW to enforce the PBLIS requirements, including issuing penalty notice amounts (or PINs) for breaches of requirements to support effective implementation of PBLIS (note this may be similar to **Act Option 5** which seeks to strengthen the enforcement of private port operator directions, including traffic control at the port).

This option would be subject to agreement from the private port operator and require appropriate resourcing (with the relevant skills) to administer PBLIS and manage the TMA and ANPR cameras.

Benefits

- May improve efficiency in the administration of PBLIS.
- Enables the private port operator to apply a whole of port approach to its operations.
- May drive innovative approaches and collaboration between relevant parties.

Challenges

- Implementation may be complex with the government retaining responsibility for the PBLIS regulation while a private entity manages the daily operational requirements under PBLIS.

Implementation

This approach could be applied to various scenarios considered in the Review:

- NSW Ports could be delegated the ability to administer PBLIS in its current form, along with any amendments to PBLIS recommended in this Review and adopted by the NSW Government. TfNSW could also contract NSW Ports to manage the TMA and ANPR cameras. Under this option, the government will continue to be responsible for the Regulation, but the daily implementation of PBLIS would be managed by NSW Ports.
- If there was a transition away from the current PBLIS arrangements while retaining some performance monitoring (see **PBLIS Option C17** for further details), NSW Ports could be responsible for the ongoing performance monitoring role. This would reduce administrative effort for all parties as the detailed requirements of PBLIS would be removed and the private port operator is well suited to monitor and report on port landside performance.

PBLIS Option B16: Non-government implementation of PBLIS – Consider enabling NSW Ports to administer PBLIS and TfNSW contracting NSW Ports to manage the TMA and ANPR cameras.

PBLIS OPTION C

3.4 PBLIS Option C

This option is to transition away from regulated PBLIS arrangements to industry-led, voluntary arrangements with ongoing performance monitoring and the ability to reintroduce regulation if required. Given the history of poor landside performance at Port Botany, the transition to a non-regulatory approach would require the ability to re-regulate to ensure suitable performance under a non-regulated framework. Items in **PBLIS Option B** for other parts of the port supply chain, such as empty container facilities, are also particularly relevant for this option.

OPTION C	TITLE
C17	**Transition away from PBLIS but retain oversight –** Remove the PBLIS regulation in a phased transition, but retain performance monitoring and the potential to re-introduce PBLIS should port performance deteriorate.
C18	**Oversight of access arrangements –** In addition to **PBLIS Option C17**, provide regulatory oversight of industry access arrangements to support the transition away from PBLIS.

3.4.1 Option C17 – Transition away from PBLIS but retain oversight

This option proposes to remove the PBLIS Regulation via a transitional process which would allow industry to manage the port landside interface without the regulated PBLIS rules. To ensure port performance is maintained, a transparent performance monitoring regime would be implemented and the potential to re-introduce government regulation, if performance standards decline, would be retained.

PBLIS is an intrusive government intervention that requires considerable administrative effort by industry and government. In addition to the administrative costs and specialised resource requirements for the daily operation of PBLIS, making any changes to current arrangements takes a long time and significant effort by all parties. While the PBLIS regulatory structure is designed to provide as much flexibility as possible, any government regulation by its nature is inherently rigid with strict state-wide rules on processes for making amendments.

Any changes to the Mandatory Standards require appropriate industry consultation, followed by a written order from the Minister, gazettal of that order, publishing of the updated standards, the amendments and a consolidated version of the standards, and written notice to relevant operators from the Minister about the amendments. If any amendments to the rules require changes to operating systems, this is costly and time consuming for industry and government. The time taken to change requirements would be significantly reduced in a non-regulated environment.

PBLIS is unique to Port Botany and there are no similar regulatory arrangements that apply a similar level of government regulation in other container terminals in Australia or internationally. The closest international example covered in the Advisian Report is the Port of Manila where there is government regulation requiring the stevedores to use a VBS, mandating its rules, including booking zones and fees (the private terminal operators can choose which fees apply to different zones), and requiring the use of the Points Payment System as the method of payment for the VBS.[53] The Port of Valencia also has some regulation, to provide carriers with compensation in the event of delays – the compensation system applies for a truck delayed within the terminal gates for more than 75 minutes (based on length of the delay) and each terminal is responsible for its implementation (with no active government or port operator role and road carriers are often unhappy with the outcome).[54]

It is preferrable wherever possible for government to not intervene in private markets to avoid unintended consequences such as impeding market flexibility or driving inefficient behaviours. Ports in other jurisdictions in Australia operate effectively without a regulated landside interface model, such as the Port of Melbourne which handles the largest volume of containers in Australia.[55] Notably since the introduction of PBLIS in 2010, this approach has not been replicated in other jurisdictions.

To facilitate landside performance, the Port of Melbourne encourages more efficient operations, such as dual runs, however it is left to the terminals to design and implement systems to accommodate this.[56]

The Deloitte Report advises that the rigidity of PBLIS has entrenched some outdated systems and practices. It also notes that the PBLIS financial penalties disincentivises stevedores and road carriers from trying new approaches to improve or replace inefficient methods (for example by innovating and adopting new technology) or operating collaboratively.[57]

The CBA also found that some of the changes in performance (and positive outcomes) from PBLIS may persist through voluntary arrangements between stevedores and the road carriers. This means that even without the PBLIS rules, the potential for improvements to performance exist.

Stevedores reported, as outlined in the Deloitte Report, that while PBLIS had a positive impact on the overall efficiency of the port at the outset, operational changes have been required in their landside operations regardless to manage the greater throughput now required from growing volumes at the port.[58]

The CBA found that the total benefits of PBLIS in 2021 were $19.4 million. The TMA was an important contributor by bringing $8.2 million of these benefits, $10.9 million was from the service lines, cameras and enforcing parking rules and only $0.38 million was derived from the Mandatory Standards and associated penalties in 2021.[59]

53 Advisian 2022, PBLIS Comparison Study, Sydney, NSW, pp. 22 and 95,
54 Advisian 2022, PBLIS Comparison Study, Sydney, NSW, pp. 163 and 167
55 Advisian 2022, PBLIS Comparison Study, Sydney, NSW, p. 103
56 Advisian 2022, PBLIS Comparison Study, Sydney, NSW, p. 107
57 Deloitte Access Economics 2022, PBLIS Industry Behavioural Research, Sydney, NSW, p. 31
58 Deloitte Access Economics 2022, PBLIS Industry Behavioural Research, Sydney, NSW, p. 51
59 Castalia 2022, Cost-Benefit Analysis of PBLIS Performance, Sydney, NSW, pp ix and 38-43

However, given the success of PBLIS in addressing the congestion issues and the nature of the relationships between market participants (where there is a reluctance to collaborate), government would require assurance that prior behaviours would not reoccur. For this reason, performance standards would continue to be monitored and the ability to re-introduce the PBLIS regulation would be in place in case appropriate performance is not maintained. This would ensure that the market is suitably incentivised to maintain and improve efficiency and productivity in the port landside interface whilst benefiting from the reduced complexity and flexibility of operating without the PBLIS rules.

Stakeholder feedback

Some stakeholders recommended removing PBLIS due to high costs involved with its administration, its rigidity and concern that improvements to landside operational performance are not possible under the PBLIS regulations, because of the level of specificity of the details.

Other stakeholders supported PBLIS as it has introduced accountability by all parties in the port landside interface and should be retained and in some instances strengthened.

Benefits

- Increased flexibility in how the landside interface is managed including quicker adaptation to market changes.
- Reduction in administrative effort for industry including stevedores and transport operators.
- Reduction in government oversight to only performance monitoring measures.

Challenges

- A transition away from PBLIS may result in performance standards at the port deteriorating with the issues PBLIS was designed to address (such as congestion) reoccurring.

Implementation

This approach would require a phased transition process away from the regulated PBLIS requirements, to be replaced with a regulated performance monitoring regime. Transparency of the performance monitoring regime would be essential, while ensuring commercial information is protected. The ability under the Act for the Minister to regulate the port related supply chain would allow PBLIS to be re-introduced if port performance deteriorates.

Options for implementing the performance monitoring regime include:

- Government monitoring port-landside performance under the regime, or
- NSW Ports monitoring port-landside performance on behalf of the government, as outlined in **PBLIS Option B16.**

PBLIS Option C17: Transition away from PBLIS but retain oversight – Remove the PBLIS regulation in a phased transition, but retain performance monitoring and the potential to re-introduce PBLIS should port performance deteriorate.

3.4.2 Option C18 – Oversight of access arrangements

In addition to **PBLIS Option C17**, oversight of the commercial contractual arrangements between stevedores and truck operators that would replace the PBLIS rules could be provided to support this transition process. This would introduce appropriate arrangements to ensure equitable access to the port.

Prior to the introduction of PBLIS, comprehensive contractual arrangements between stevedores and truck operators were either not in place or were not adhered to. PBLIS substituted the need for commercial contractual arrangements via the detailed rules for truck operator access and servicing. Without PBLIS, some form of operating terms between these industry parties would be required.

In this option, each stevedore would consult with truck operators before submitting its standard form agreement to an appropriate entity, or independent organisation such as a pricing regulator (possibly IPART or the ACCC), for approval.

The agreement would include, at a minimum, provisions on:

- A VBS system and arrangements for booking slots.
- Obligations on the stevedore to service trucks in accordance with slot bookings.
- Obligations on truck operators to meet commitments for bookings.
- Any remedies, including compensation for breaches of these obligations by either party.
- A dispute resolution process.

Approval of an agreement would mean that the agreement solely governed port land-side arrangements and PBLIS would not apply to the operations of that stevedore. Until such approval, PBLIS would continue to apply to operations by a stevedore.

The agreement would be subject to review by the approval process after five years. A process would also be available for a stevedore to submit amendments to the agreement from time to time. Approved agreements could differ between stevedores depending on their individual circumstances. However, the approving agency should take into account the costs imposed on transport operators having to deal with different systems.

This approach would seek to use a standard form contract to regulate the relationship between the parties, rather than regulating the specific operating details, as PBLIS currently does. It also has the potential to influence the cultural environment and encourage a more collaborative approach.

Under the current approach, which is based on a high level of government regulatory intervention, any issues are often considered by stakeholders to be the responsibility of government to solve. This may impede drivers of industry collaboration and reinforce combative relationships between industry parties.

Over time, if this proposed approach was found to be effective, the level of prescription in these arrangements could be reduced reflecting improved co-operation between stevedores and truck operators.

Benefits

In addition to the benefits outlined in **PBLIS Option C17**, further port efficiency benefits include:

- Potential to influence relationships to encourage a collaborative approach between stevedores and truck operators. Requiring parties to engage on the development of agreed service and performance arrangements, that are suitable for approval, could facilitate improved working relationships across industry.

Challenges

- May diminish some of the benefits of greater flexibility and reduction in administrative effort that would be achieved under **PBLIS Option C17**.

Implementation

A transparent framework would need to be developed and implemented to carry out this function. An appropriately experienced entity would need to be given responsibility for this activity and TfNSW is likely not best placed to carry out this role. Close liaison between the operator of PBLIS and the approving entity would be required. ACCC authorisation may also be required if there was to be collective negotiations by truck operators or stevedores.

PBLIS Option C18: Oversight of access arrangements – In addition to **PBLIS Option C17**, provide regulatory oversight of industry access arrangements to support the transition away from PBLIS.

PBLIS OPTION D

3.5 PBLIS Option D

Under the Act, the Minister can regulate the provision of rail servicing by the stevedores at Port Botany. This extends to other parts of the port related supply chain such as empty container storage facilities and IMTs. It does not extend to the operation of any railway outside a port or supply chain facility. Some stakeholders have raised the possibility of extending PBLIS type regulatory interventions to cover rail.

Option D considers the performance of rail and its impacts on the Port Botany container task. Given the connected and inflexible nature of rail networks, analysing the performance of rail at Port Botany cannot effectively be considered in isolation of the broader rail networks that connect to the port. Importantly, the Review recognises that addressing any performance issues inside the port gate requires addressing issues outside the port, to achieve overall rail performance. Other information and commentary on the broader network is provided to support these options and inform stakeholders of the full considerations of the Review.

Rail performance

Over the past decade, rail volumes at Port Botany have not grown at the same rate as road volumes, and in recent years have declined. As outlined in the Discussion Paper, rail container volumes and mode share increased in 2017 to almost 20 per cent mode share and since then, both rail volumes and rail mode share have decreased.

NSW Ports forecasts container volumes at Port Botany will reach 7.3 million TEU when the port is at full capacity and have a target to move 3 million TEU via rail per year by 2045.[60] To reach 7.3 million TEU this would require 4.3 million TEU to be moved on road.

The total volume at Port Botany in CY2021 was 2.57 million TEU, of which 368,000 TEU was on rail and 2.2 million TEU was on road. Rail mode share at Port Botany is currently around 14 per cent of total volumes. To reach the forecast of 7.3 million TEU at the port and considering the target of 3 million TEU on rail, this would require

60 NSW Ports 2015, *Navigating the Future: NSW Ports 30 Year Master Plan*, Sydney, NSW, p. 5

a 40 per cent mode share for rail at Port Botany. The causes of the recent decline in rail mode share may be complex, but a prevailing factor appears to be a lack of coordination among the many public and private organisations that make up the Port Botany supply chain. This has been a long-standing observation and in 2008, IPART noted:

> *"For any supply chain to function well, the activities at each of the functional stages in the chain must be coordinated. In vertically integrated supply chains, the command-and-control structure imposed by a corporation provides coordination. However, in a vertically separated supply chain like the container freight supply chain at Port Botany, market interactions shape the decisions participants take at each functional stage of the chain."*[61]

Vertically separated supply chains[62] can present considerable coordination challenges. These can result in excessive costs and mis-matched or under-utilised resources. IPART went on to note that "all these symptoms of failed coordination can be observed at Port Botany."[63]

Responses such as PBLIS have sought to address similar issues on the road interface at the port. Previous efforts to improve coordination of rail included the establishment of the Rail Operations Control Centre (ROCC) by Sydney Ports Corporation to improve coordination of rail operations within the port precinct and the establishment of the Cargo Movement Coordination Centre (CMCC) by TfNSW in 2014.

However, coordination challenges for rail across the supply chain still appear to be significant and are likely the result of a series of decisions made by both governments and industry over recent decades. Ideally, in such circumstances, industry-led responses would address the coordination issues, either through contractual, or voluntary arrangements, or through mergers or acquisitions. The fact that such solutions have not emerged suggests that there may be characteristics of the port rail supply chain that hinder effective market-led responses.

Some of these factors may include:

- The extent of vertical separation of the port rail supply chain generating a possibly atypical and inefficient number of interfaces between different organisations.
- The mix of public (Sydney Trains and the Australian Rail Track Corporation (ARTC)) and private sector entities in the supply chain constraining commercial consolidation, and/or the development of voluntary cooperation arrangements.
- The objectives of the public sector entities appear to not be well aligned to the port rail task. The Sydney Trains and ARTC managed networks are essential infrastructure for making port rail function effectively. However, Sydney Trains' core business is providing commuter passenger services and the ARTC was established by Australian, State and Territory Governments to improve and grow the interstate rail task. The port rail task, once outside the port gate, does not therefore have the benefit of market-reflective ownership of rail infrastructure, meaning it is a peripheral, rather than a central activity for ARTC and Sydney Trains.

Current initiatives

While the coordination problems are significant, a number of initiatives, decisions, and processes are underway that may increase rail efficiency at the port by providing new incentives for improved coordination, inside and outside the port gate. These initiatives are a mix of actions by government and industry, and include:

61 IPART 2008, *Reforming Port Botany's links with inland transport*, Sydney, NSW, p. 112
62 *Vertically separated supply chains* involve multiple organisations owning and operating different parts of the supply chain. For comparison, vertically integrated supply chains are when the same organisation owns and operates the entire supply chain – for example a mine with a privately owned railway and port.
63 IPART 2008, Reforming Port Botany's links with inland transport, Sydney, NSW, p. 112

Initiatives 'inside' the port gate[64]

- NSW Ports' $120 million investment in 'on-dock' rail capacity at Patrick's terminal across the next four years.
- Patrick Terminals' $70 million investment in operating equipment and systems.
- NSW Ports plans to subsequently invest in 'on-dock' rail at the other two stevedores with the aim that all three stevedores will have capacity for one million TEU per year.

Initiatives 'outside' the port gate

- Duplication of the Port Botany rail line by the Australian Government, which is expected to increase capacity for freight movement on the Botany Line from the current average of about 20 trains per day (per direction) up to about 45 trains per day (per direction) by 2030.
- The development of a 'Freight Level of Service' by TfNSW to provide a clearer specification of port rail service needs, and for this to be reflected in both TfNSW's development of the Standard Working Timetable (SWTT), and through its service contract with Sydney Train's network.[65]
- A greater recognition by the NSW and Australian Governments for ARTC's operations in NSW should improve regional and port movements, and be subject to new requirements that include:[66]
    - » New enforceable network performance outcomes, including network standards.
    - » Effective reporting mechanisms on asset and operational issues.
    - » Appropriate governance arrangements to ensure coordination of performance.
    - » Sharing of data to facilitate operational performance outcomes.

These investments and processes, if effectively leveraged off each other, should result in a more coordinated, integrated, and appealing freight rail service offering to the market. While the supply chain may continue to have high levels of vertical separation, the benefits of a more vertically integrated supply chain (for example, increased command and control) can possibly be simulated though commercial (contractual) agreements between supply chain participants, without the need for government intervention.

Regulatory intervention by government may be premature while these initiatives, agreements and infrastructure are being implemented. Consistent with the Better Regulation Principles, a regulatory intervention should only be pursued after non-regulatory, market-based, commercial or cooperative approaches have been provided a reasonable opportunity to work. In line with these principles, there is an additional condition under the Act that before any government intervention in the operation of

64 NSW Ports 2018, *$120 million investment to boost rail capacity at Port Botany*, www.nswports.com.au/120-million-investment-boost-rail-capacity-port-botany

65 TfNSW is responsible for the development of the Standard Working Timetable (SWTT). The SWTT documents all of the train paths that are planned for operation on the network. This includes passenger rail services as well as mandatory and timetabled freight paths. Sydney Trains is responsible for maintaining the Sydney Trains network and manages the day-to-day movement of trains. Sydney Trains also manages the creation of the Daily Working Timetable (DWTT). The DWTT is created three days in advance of the day of operation and is the result of adding ad hoc freight paths (paths not included in the SWTT), possessions for maintenance and special events to the information contained in the SWTT. TfNSW states its service level expectations from Sydney Trains, for both passenger and freight services, through the development of the SWTT, and through its services contract with Sydney Trains - the Rail Operations Agreement.

66 The Commonwealth of Australia and the State of New South Wales, 2018, Bilateral Agreement in Relation to Inland Rail

services and facilities in the port related supply chain, the Minister must be satisfied that such action will promote economic efficiency and not constrain the private port operator functions.

A PBLIS style government intervention in port rail management is therefore not recommended at this time.

However, once industry investments mature, if the right environment for industry-led solutions is still not there, government retains the ability to intervene in the market (via the Act) with regulatory approaches.

These options are consistent with the Better Regulation Principles to encourage industry-led approaches to market problems.

OPTION D	TITLE
D19	**Remove regulated rail booking fee structure –** Remove the regulation of rail servicing and booking fees to allow stevedores to set fees and service rules as appropriate.
D20	**Rail data transparency –** Make available information on stevedore rail window use, performance and container tracking.
D21	**Improve governance frameworks to align public infrastructure managers with the port rail task –** Ensure public rail organisation (Sydney Trains and ARTC) requirements are appropriately aligned with the port rail task.
D22	**Encourage voluntary arrangements between private sector participants to improve rail coordination –** Encourage the use of voluntary arrangements to improve coordination among private organisations in the rail supply chain.
D23	**Examine additional future rail options –** As rail investments mature, consider further options for improving interface/coordination between supply chain participants and functions.

Stakeholder feedback

Stakeholder feedback was commonly of the view that rail at the port could be better utilised.

Support for applying PBLIS type arrangements to rail at the port was raised by stakeholders seeking improvements to rail in the way PBLIS improved the port-road interface. Other stakeholders advised against a PBLIS type arrangement for rail, pointing to differences in rail and road operations. Some stakeholders considered that PBLIS discourages the use of rail because it is perceived to encourage stevedores to service trucks over rail, to avoid PBLIS penalties.

It was suggested that the (re)establishment of a rail coordinating forum following the termination of the Port Botany Rail Optimisation Group and the Rail Freight Industry Group be implemented.[67]

Other issues raised by stakeholders and proposals to address these included:

- The application of port user charges on road access to fund rail infrastructure.
- Short term incentives to reduce the cost of rail.
- Government incentives for regional trains to deliver containers to IMTs not the port – to avoid long trains that require splitting up at the port.

67 The current TfNSW road and rail industry consultative forum is the Port, Logistics and Transport Taskforce (PTLT).

3.5.1 Option D19 – Remove regulated rail booking fee structure

In 2010, stevedore rail servicing fees were regulated in response to planned increases, initially via a price cap. Following further consideration in 2011 and cost benefit analysis, rail fees at the two stevedores operating at the time, Patrick Terminals and DP World, were regulated via a charging structure that covers lift rates and cancellation terms (this was also applied to Hutchison in 2014 (when the terminal commenced operations).

The model implemented was intended to encourage increased stevedore lifts per hour and ensure rail was not disadvantaged against road container transport, to support continued growth in rail use at the port.

The arrangement remains in place and applies a $540 rail servicing charge per hour with a guarantee of 36 container lifts which equates to $15 per container. Where more than 36 container lifts are completed in the hour, the additional containers are charged at $30 per container (in addition to the $540 charge). Where less than 36 lifts are performed and containers were available, the stevedore charge of $540 is decreased by $30 per container that was not serviced. This structure was intended to encourage trains to arrive with 36 or more containers per one hour rail window[68] and for stevedores to be incentivised to lift more than 36 containers per hour.

The arrangement includes provisions for each 15-minute period after the initial hour and the carrying forward of any negative balance a stevedore may owe to the rail operators' next service. Cancellation terms are included, with rail operators charged at a specified rate if they cancel within 48 hours prior to the window start time. If the stevedore cancels the window within 48 hours of its commencement, they are required to not charge the rail operator for that window and to charge the next window provided to the rail operator at a specified rate.

Since the regulation of these fees in 2011, the total cost of charges applied to rail and truck container transport have changed and terminal access charges have been applied equally to both truck and rail containers and booking fees for trucks have increased. Terminal access charges and road booking fees are not regulated.

Rail regulated service fee

The Better Regulation Principles require that government regulation should only occur where clearly necessary (and non-regulatory approaches should be reasonably pursued first), and that regulations be simplified, modernised and repealed where suitable. In this instance the regulation of rail servicing fees at Port Botany is considered no longer current or suitable and should therefore be removed.

The application of a regulated rail servicing fee has not proven effective at increasing rail use. Around 16 per cent of containers entering or leaving Port Botany were transported by rail in 2020, and this figure has not changed considerably since 2015.[69]

The Deloitte Report identified that the low cost of window bookings, cancellation rules, and the difficulty in finding a window which aligns with rail paths, contributes to slot hoarding (booking and holding more rail windows that needed) by rail operators, including booking windows at all three stevedore terminals simultaneously.[70]

In addition to the rail regulation being outdated, the significant investment by the port operator and current and planned stevedore investment in 'on dock' rail capacity, shows that there are strong incentives for stevedores to fully utilise rail capacity to maximise profits and achieve an appropriate return on investment. Regulated rail fees, lift rate specifications and cancellation rules are not required and could hinder productivity and efficiency gains from these investments.

68 Rail window is the period of time allocated for a stevedore to service a container train at their terminal
69 Source: TfNSW data
70 Deloitte Access Economics 2022, PBLIS Industry Behavioural Research, Sydney, NSW, pp. 33-41

Removing the regulated rail charging structure, cancellation rules and rail service fee will support industry to manage rail servicing efficiently and support better utilisation of current and new rail infrastructure. Along with other decisions and processes underway to improve freight rail access to Port Botany, increased use of rail in the future is expected.

Stakeholder feedback

Requests to revise or remove the regulated rail fee and rail window cancellation rules were provided by a number of stakeholders. Feedback included suggestions to remove the price regulation as it is now out of date and to change the rail window cancellation time period to avoid hoarding of rail windows.

Benefits

- Remove impediments to increased investment, to expand rail capacity.
- Increase flexibility by allowing industry to set operational parameters as appropriate and to revise as required.

Challenges

- None.

PBLIS Option D19: Remove regulated rail booking fee structure – Remove the regulation of rail servicing and booking fees to allow stevedores to set fees and service rules as appropriate.

3.5.2 Option D20 – Rail data transparency

Currently there is no visibility of rail data, such as rail window bookings or use, publicly or within industry. TfNSW receives data on port rail (not in real time) from the three stevedores via a data direction from the Minister under the Regulation and data is also provided to NSW Ports.

Industry would benefit from rail data being made publicly available so that there is transparency for the supply chain of the rail window schedule and bookings as well as stevedore and rail operator performance.

Rail container tracking would also improve visibility for industry of the location and status of rail containers across the supply chain. Currently rail container location information is not made readily available to the level that other transportation methods do, including in parts of the trucking industry, where customers are provided with up-to-date information on the location of their goods. Meeting customer expectations of transparency of their goods location would improve the service offering and support demand for rail transport.

In the future a Freight Community System (see **PBLIS Option B14**) could host this data which may be available in real time. This could provide rail performance data for stevedores in the way TTT performance is provided via PBLIS for road servicing. Industry could provide rail container tracking information to demonstrate the efficiency of the port rail task and support customer demand for improved transparency of container status.

Stakeholder feedback

Stakeholders recommended increasing the visibility of rail performance by providing data on available rail windows, rail window schedules, rail window performance (utilisation percentage) and stevedore / rail operator performance on a public website, to encourage improved performance.

Stakeholders also raised issues with the lack of visibility of specific containers on rail, including not knowing whether import containers have been loaded for delivery to IMTs. Expanding PBLIS to cover rail to address this lack of information was proposed.

Benefits

- Provide transparency of rail performance and window availability for industry.
- Support customer confidence in rail service levels and therefore increase demand for rail.

Challenges

- Industry may be concerned about the release of performance information due to potential impacts on their business.

Implementation

This option could be implemented via regulation, utilising the existing ability for the Minister to require data on stevedore rail performance, including the format in which data should be provided. Consideration would be given to what information is suitable to make public, ensuring commercial information is not compromised, while providing transparency wherever possible.

Industry could provide rail container tracking information for their customers.

PBLIS Option D20: Rail data transparency – Make available information on stevedore rail window use, performance and container tracking.

3.5.3 Option D21 - Improve governance frameworks to align public infrastructure managers with the port rail task

Current coordination issues 'outside' the port gate

Coordination problems outside the port gate often centre on the challenges of continuity across the ARTC and Sydney Trains managed networks for port trains. ARTC manages the Metropolitan Freight Network (MFN) which is the dedicated rail freight network that services Port Botany. Over 80 per cent of import containers through Port Botany are delivered within a 40 kilometres radius of the port. Most IMTs servicing the rail component of this task can only be reached by accessing the Sydney Trains managed network.

The dependency on the shared passenger (Sydney Trains) network for the rail freight task is anticipated to decrease over time, as more dedicated freight infrastructure is delivered (for example, the Southern Sydney Freight Line (SSFL), and the planned Western Sydney Freight Line (WSFL)), with new IMTs being directly serviced by this infrastructure (the Moorebank IMT and the planned Mamre Road IMT).

However, for the foreseeable future, the Sydney Trains managed network will be essential for the port rail task. This means port operations will be dependent on an effective interface between the ARTC and Sydney Trains networks, and therefore on better aligning these two organisations with that task.

Better governance to improve rail coordination

A Freight Level of Service (FLOS) for Sydney Trains

Sydney Trains' core business is passenger service operations. It is also the most congested network in the port rail supply chain, with the fewest options for port train movements. Determining what level of service Sydney Trains can achieve for the port

rail task is therefore a foundational element of what the total supply chain can deliver.

By utilising and strengthening the purchaser-provider model under which TfNSW is required to operate (under the *Transport Administration Act 1988*), TfNSW (as purchaser) is developing a detailed specification to Sydney Trains (as provider) of its service level expectations for the Port Botany freight rail task, with this being reflected in the service contract between TfNSW and Sydney Trains.

The FLOS will establish clearer governance arrangements and is intended to provide greater surety that rail pathing and performance for port rail services will be available on the Sydney Trains network to contribute to the NSW Government's 28 per cent mode share target for Port Botany.[71] Through this process, TfNSW will align Sydney Trains more closely with the important role it needs to play in the port rail task.

A Freight Level of Service for ARTC

Current lease arrangements with the ARTC require TfNSW and the ARTC to develop a minimum service level agreement for port related rail capacity on the MFN.

Although ARTC is primarily focussed on servicing the interstate rail task, reaching a negotiated service level agreement for the port rail task would be supported by:

- A FLOS for the more contained Sydney Trains network providing the foundation for a complementary level of service for the ARTC controlled MFN.
- The Australian Government's recent investments to enhance the ARTC managed network, including the duplication of the Port Botany line.

As also noted above, both governments recognise that good governance and enforceable performance requirements on the ARTC are part of ensuring Port Botany is an efficient international port gateway that drives national productivity.

With this second agreement in place, the need to improve the focus of Sydney Trains and the ARTC on the port rail task could be achieved. The dual FLOS processes should provide sufficient surety to industry to allow the development of complementary arrangements between commercial organisations in the supply chain.

Benefits

- Better coordination and alignment through clearer policy direction to Sydney Trains and ARTC on their respective roles in the port rail task.
- Surety for industry that a defined level of port rail pathing and performance for port rail services will be available through ARTC and Sydney Trains networks.

Challenges

- The TfNSW and ARTC service level agreement for the port rail task is dependent on a successful negotiation process.
- Should these negotiations stall, additional intergovernmental discussions and further changes to governance arrangements may be required to reflect the national significance of effective rail operations at Port Botany.

PBLIS Option D21 - Improve governance frameworks to align public infrastructure managers with the port rail task – Ensure public rail organisation (Sydney Trains and ARTC) requirements are appropriately aligned with the port rail task.

71 NSW Freight and Ports Plan 2018-2023 - Rail share (road v rail mode share) for freight moved to and from Port Botany increased to 28 per cent or 930,000 Twenty-foot Equivalent Unit (TEU) by 2021

3.5.4 Option D22 - Encourage voluntary arrangements between private sector participants to improve rail coordination

Current coordination issues 'inside' the port gate

As Sydney Trains and the ARTC are government owned, improved coordination across both networks for port traffic can be viewed as a largely intergovernmental discussion. However, improving coordination issues within the port gate is largely dependent upon effective arrangements between private sector organisations. Current coordination problems include:

- Bookings for rail windows are frequently made across all three stevedores for the same time, resulting in unused capacity that is not made available for other operators.
- Rail operators retain bookings for higher volumes than they have, in case of future need (as the price of paying for a window is less than the cost of losing a window), delivering less than full trains to the port.
- Rail operators cancel bookings at the last minute (48 hours out) when it is too late for another operator to utilise the window.
- Shortage of windows, and at the same time, an underutilisation of windows leading to inefficiency that impacts the take up of rail by road operators and others.
- Regional export trains bring exports to the port, but do not load import containers. The splitting and shunting of long regional trains into multiple terminals can take up window capacity at the port and impacts lift time. This impacts overall port efficiency and productivity, as well as the total number of windows available.[72]

Improving rail efficiency within and across the port gate

The large investments by the stevedores and NSW Ports in rail facilities mean that greater commercial benefits are likely to be realised through coordinated optimisation of on-dock rail operations. If these incentives can be complemented by better governance arrangements between ARTC and Sydney Trains (as per **PLBLIS Option D21**), then the current static and hard distinction between train paths and rail windows can begin to shift towards a more dynamic and seamless approach.

A possible voluntary arrangement between NSW Ports and the stevedores could include, for example, on-dock operational practices and performance requirements that are consistent with the service levels specified in the FLOS agreements with ARTC and Sydney Trains. The voluntary arrangements could also address the current problem of rail window hoarding by avoiding simultaneous bookings across the three stevedores. This would increase the availability of windows and facilitate a coordinated approach to the management of any daily scheduling changes that can result from delays on the broader network or at the port.

NSW Ports as the private port operator may be well placed and incentivised to take a leading role in both advising governments of appropriate service level and performance requirements to be included in the governance arrangements with Sydney Trains and ARTC, and ensure that consistent requirements are in place in the voluntary arrangements between itself and the stevedores. These voluntary arrangements would need to be non-exclusive and could include service standards such as minimum container numbers per train and stevedore service levels. This would increase rail utilisation by ensuring an efficient number of containers per train and effective use of stevedore resources.

The combination of improved governance frameworks through FLOS agreements between TfNSW and Sydney Trains and ARTC and a voluntary (or commercial) on-

72 Deloitte Access Economics 2022, PBLIS Industry Behavioural Research, Sydney, NSW, pp. 33-41

dock agreement between NSW Ports and the stevedores (which could expand to include TfNSW and/or ARTC if required) provides an opportunity for the realisation of a more integrated and coordinated rail product from the port to IMTs in Greater Sydney.

To be effective, these "back-to-back" service agreements would need to be well aligned, specific and supported by effective and consistent performance metrics and reporting. Under this approach, a rail operator could, through a single procurement or bidding process, enjoy a right to a train path that traverses both the ARTC and Sydney Trains network, with that path right to include a rail window to allow loading or unloading at the port.

Benefits

- By closely aligning the service requirements across the various agreements, a more vertically integrated supply chain is simulated, allowing the coordination benefits of a more unified management structure to be achieved.

Challenges

- ACCC approval would likely be required for coordinating voluntary agreements among the commercial supply chain participants.

PBLIS Option D22 - Encourage voluntary arrangements between private sector participants to improve rail coordination – Encourage the use of voluntary arrangements to improve coordination among private organisations in the port-rail supply chain.

3.5.5 Option D23 – Examine additional future rail options

As rail investments mature, further options should be considered for improving interface/coordination between supply chain participants and functions:

1. Develop more unified train planning for port trains – further to the arrangements under **PBLIS Options D21 and D22**, consider developing requirements for a unified master train plan for port rail operations.
2. Examine the benefits of a 600 metre standard length for port shuttles – consider adopting a common train standard for port rail operations.
3. Examine other delivery models for future port rail operations - consider opportunities for assessment of other operational models for the port rail task including via the Western Sydney Freight Line business case development.

These options are outlined below.

1. Develop more unified train planning for port trains

Assuming a fictional vertically integrated organisation was singularly responsible for the port rail task, a central train planning unit within that organisation would be responsible for developing an optimised train plan and schedule for moving the required task. This would provide the basis for delivery of the required service level by a real-time operational area responsible for day-to-day rail operations (such as staffing of fleet, maintaining, configuring and running trains and train control).

In the current Port Botany supply chain, no central rail planning unit exists. Rather, the functions are undertaken by different organisations, and the linear continuity for a port train movement depends on information sharing and effective relationships between relevant parties in different organisations to manage the planning interface between separate organisations. To improve current arrangements, a more formalised

coordination process for developing an optimised train plan for the Port Botany rail task could be considered.

This could be reflected in commercial (contractual) and voluntary agreements between the supply chain participants that place requirements on the various parties to collaboratively develop that optimised train plan.

Such collaborations would need to be framed by the operational constraints of the Sydney Trains network. This reflects that the Sydney Trains managed network is still essential to effective port rail operations (refer to **PBLIS Option D21** for further detail) and is therefore the logical starting place for developing an optimal train plan for the port rail task.

The development of a FLOS for the Sydney Trains Network can help specify and define the desired service level required *within* the Sydney Trains network. However, practically all port freight rail journeys commence or end *outside* the Sydney Trains network. Effective train planning therefore requires close coordination with the port train planning processes occurring 'off-network'.

A possible initiative therefore is the establishment of a more formalised train planning forum, with membership consisting of NSW Ports, ARTC, and Sydney Trains, with accountability for producing an optimised train plan for the port rail task.

Criteria, performance metrics and timetable rules would need to be clearly stated to guide the train plan development processes by the cross-organisational forum. These could be reflected in the anticipated contractual and voluntary agreements between the supply chain participants, and therefore negotiated and agreed before the forum was established. If required, the criteria could also be reflected in the intergovernmental instruments that are intended to provide policy direction to the rail network managers.

Benefits

- The approach is intended to simulate a centralised train planning function for the Port Botany rail task. Seamless planning should flow through to more coordination of port shuttles across the port, ARTC and Sydney Trains interfaces.

Challenges

- Establishment effort and costs required.

2. Examine the benefits of a 600 metre standard length for port shuttles

The FLOS agreements and voluntary arrangements outlined in **PBLIS Options D21 and D22** could be further supported by changes in the current configuration of trains. This reflects that improving optimisation and coordination in a large technical physical system, such as the rail components of the supply chain, often requires standardisation of physical assets as well as processes and procedures.

Moving to a standardised 600 metre train length (from current lengths of up to and over 1,200 metres) for port rail operations could increase the likelihood of more disciplined rail operations. NSW Ports investment in rail sidings at the port at this length was selected on the basis that it would reduce splitting and shunting of trains, enabling trains to be turned around more quickly.

A further enhancement to operational practices would be that each 600 metre train run could be dedicated to a particular stevedore. This would eliminate the current practice of complicated 'on dock' train movements as trains are manoeuvred sequentially to serve more than one stevedore. A standard train length would also allow better scheduling and management of the interaction of port shuttles with passenger services, on the densely trafficked shared network.

NSW Ports' current investment in 'on-dock' rail infrastructure includes four rail sidings that are 600 metres long at the Patricks Terminal. Adopting this train length across the supply chain would maximise the utility of these investments and provide an important reference for future investments by other supply chain participants.

Benefits

- Standardisation to 600 metre trains would allow optimisation of the current and future infrastructure and assets that make up the supply chain.
- Allow better scheduling and management of the interaction of port shuttles with passenger services, on the densely trafficked shared network as trains of this length fit better within current timetable scheduling and Sydney Trains' real-time operational constraints.

Challenges

- Efficient and effective transition facilities may be required to allow regional trains to be reconfigured into 600 metre port shuttles.
- A challenge under this option would be the accommodation of the longer trains travelling to Port Botany from regional NSW with containers for export. These trains operate at approximately 1200 metre lengths. Standardisation of all port related traffic would require a transition point at which these regional trains can be efficiently broken into the optimised 600 metre configuration dedicated to a particular stevedore for the remainder of the journey to the port.

3. Examine other delivery models for future port rail operations

The two options outlined above are based on alignment of contractual and operational standards as mechanisms to "simulate" a more vertically integrated "command and control" structure for elements of the supply chain. While this is one method to improve coordination, there remains the option to *actually* increase the level of vertical integration in the supply chain to help address coordination issues.

The current structure of rail operations involves different organisations managing "below" and "above" rail operations. The public policy rationale for such a structure is based on the economic theory of separating and regulating the "monopoly" (below-rail) infrastructure and encouraging the development of competition among "above rail" service providers.

However, there are specific characteristics of the port rail interface at Port Botany which raise a question as to whether this is the most appropriate model for the port rail interface. These characteristics include:

- The fact that an increase in rail use is being sought for policy reasons such as easing urban congestion.
- The "short-haul" nature of the task. In Port Botany, 80 per cent of all import containers are moved no further than 40 km from Port Botany[73].
- The challenges of the interface with the passenger network in the context of passenger priority and the physical location of Port Botany.

In such circumstances, mandating a vertically separated structure may not be the most effective model to enable rail to offer a service level that can compete with the road alternative.

A possible indicator of when rail operations should be vertically integrated or vertically separated is profitability. The current levels of public expenditure that go into port rail infrastructure are substantial. The duplication of the Port Botany Rail line is being

73 See https://www.nswports.com.au/nsw-container-ports

fully funded by the Australian Government, at a cost of $400 million[74]. This is grant funding, rather than an equity injection to ARTC, meaning there is no expectation or likelihood of cost-recovery of this investment through access fees or commercial arrangements. Previous duplications of sections of this line were similarly funded by the NSW Government.

No change in current market structure is recommended. Commercial surety is important and necessary and there are now substantial investments, investment plans and trends relying on the existing structure. Existing and planned relationships between stevedores, above rail operations and IMTs have been and are being developed to address co-ordination issues. There is a significant likelihood that these will address the coordination issues, and there are risks that a change in market structure would interfere with the existing or nascent vertical relationships. A change could undermine those relationships and investments and potentially create more co-ordination problems than are resolved.

However, an opportunity for examining the fuller set of options for the market structure for port rail operations, over the medium to longer term, could be undertaken as part of the Western Sydney Freight Line (WSFL) project.

The WSFL is a potentially city-shaping infrastructure investment, based on extending the dedicated freight network that currently services the port (the MFN) to the Mamre Road Precinct (approximately 40km west of the Sydney CBD). The line is a significant investment that likely needs a scaled response from industry to allow it to be utilised to the extent that justifies that investment.

The development and consideration of possible operational models for the Western Sydney Freight Line (WSFL) is one mechanism through which market structure issues can be examined in more depth, through a detailed analysis. Any such analysis will need to take account of the interests and investments of all relevant stakeholders at the time.

Currently a Strategic Business Case for the WSFL is being prepared by TfNSW. The primary purpose of this is to undertake a needs analysis and to identify the critical requirements for inclusion in a Final Business Case. Should the project progress to preparation of a Final Business Case, a thorough consideration of delivery and operational models will occur.

Benefits

- The business case development processes for the WSFL provides the opportunity for a thorough assessment of other operational models that may address any remaining coordination and scale challenges for rail in the supply chain.

Challenges

- A more integrated operational model for port rail would potentially require ACCC liaison or authorisation.

PBLIS Option D23 - Examine additional future rail options – As rail investments mature, consider further options for improving interface/coordination between supply chain participants and functions.

74 Department of Infrastructure, Transport, Regional Development and Communications 2021, Port Botany Rail Line Duplication, https://investment.infrastructure.gov.au/projects/ProjectDetails.aspx?Project_id=097109-17SA-NP

4. List of options

Review Act Options

OPTION	TITLE
Option 1	Replace the current three tier dangerous goods in ports time-limit penalty structure with an ongoing daily offence penalty.
Option 2	Remove the reference to identification numbers issued under the National Law as a condition of holding a mooring licence.
Option 3	Regulate the licensing of towage services, lines handling and bunkering services by the Port Authority under a new statutory regime.
Option 4	Consider extending the requirement to obtain written approval for carrying out bunkering or specified work to other relevant vessels, including those not carrying dangerous goods.
Option 5	Introduce a criminal offence and penalty notice amount (PIN) for breaching private port operator directions.
Option 6	Amend the port operator direction notification period to one week.
Option 7	Extend liability for non-compliance with parking rules to the owner of the vehicle.
Option 8	Allow for variations in port charges in relation to the environmental performance of a vessel.
Option 9	Increase the port charges notification period to the Minister to at least 40 business days before the change.
Option 10	Review application of current port boundaries and update if required.
Option 11	Require the provision of vessel performance information to relevant port authorities.
Option 12	Mandate information and data formats and types for vessel manifests and that these be provided to the NSW Government.
Option 13	Clarify key functions of Transport for NSW, which include keeping waterways free of debris and the maintenance of additional waterway infrastructure.
Option 14	Expand the functions of the Maritime Advisory Council to include advice and recommendations on property and infrastructure, to align with the expertise required of the MAC members and the functions of TfNSW.
Option 15	Amend the Act to streamline and simplify requirements where suitable.

Review PBLIS Options

OPTION A	TITLE
A1	**Apply late penalties per truck trip rather than per container –** Change late arrival penalties to be applied per truck rather than per container.
A2	**Investigate options for stevedore impacted trucks –** Consider options for a port-wide approach to stevedore impacted trucks.
A3	**Apply unforeseen events to terminal sections** – Increase flexibility in stevedore unforeseen events to allow cancellation of part of an impacted time zone, to allow the remainder of the terminal to continue operating.
A4	**Change carrier cancellation rules to 'take or pay' –** Change the notice period and booking cancellation rules by road carriers to a 'take or pay' arrangement.
A5	**Remove large and small carrier classifications –** Remove the option to separate road carriers into Large Carriers (Class B carriers) and Small Carriers (Class A carriers) for the purpose of releasing slots.
A6	**Change penalty amounts –** Increase penalties by CPI backdated from implementation and apply annually in future.

OPTION A	TITLE
A7	**Improve road data transparency –** Increase information available publicly on stevedore truck servicing and improve data provided to government to provide additional functionality.
A8	**Remove the broad power for regulating stevedore charges –** Remove the broad Regulation power to regulate stevedore charges that is not aligned with the NSW Government regulatory framework and remove the associated PBLIS stevedore charge notification and government assessment requirements.

OPTION B	TITLE
B9	**No booking until discharge –** Implement a booking system that allows container pick up scheduling once the container has been discharged from the vessel.
B10	**Points systems –** Apply penalties and/or booking fees via a points system.
B11	**Differential pricing of time zones –** Apply different prices to truck time zones - with peak periods priced higher than off-peak.
B12	**Certified transport operators –** Introduce a certification requirement for transport operators, as applied in other ports internationally.
B13	**Empty container storage facility data transparency -** Require empty container storage facility data and make this publicly available, and require empty container redirections in EDI format.
B14	**Freight Community System (FCS)** – Progress development of FCS Strategic Business Case and if positive, develop a phased implementation plan and proceed as a high priority.
B15	**Second Truck Marshalling Area (TMA) –** Investigate further the need and timing for a second truck marshalling area and if required, options for its development.
B16	**Non-government implementation of PBLIS –** Consider enabling NSW Ports to administer PBLIS and TfNSW contracting NSW Ports to manage the TMA and ANPR cameras.

OPTION C	TITLE
C17	**Transition away from PBLIS but retain oversight –** Remove the PBLIS regulation in a phased transition, but retain performance monitoring and the potential to re-introduce PBLIS should port performance deteriorate.
C18	**Oversight of access arrangements –** In addition to **PBLIS Option C17**, provide regulatory oversight of industry access arrangements to support the transition away from PBLIS.

OPTION D	TITLE
D19	**Remove regulated rail booking fee structure –** Remove the regulation of rail servicing and booking fees to allow stevedores to set fees and service rules as appropriate.
D20	**Rail data transparency –** Make available information on stevedore rail window use, performance and container tracking.
D21	**Improve governance frameworks to align public infrastructure managers with the port rail task –** Ensure public rail organisation (Sydney Trains and ARTC) requirements are appropriately aligned with the port rail task.
D22	**Encourage voluntary arrangements between private sector participants to improve rail coordination –** Encourage the use of voluntary arrangements to improve coordination among private organisations in the rail supply chain.
D23	**Examine additional future rail options –** As rail investments mature, consider further options for improving interface/coordination between supply chain participants and functions.