

Tyne Empty Container Storage Yard Modification 2

Modification Application Assessment (DA-42-10-2007-i MOD 2)

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Glossary

Abbreviation	Definition
Applicant	Tyne Container Services
BLB	Botany Loading Bay
Consent	Development Consent
CSMP	Container Stacking Management Plan
CTP	Caltex Transfer Pipeline
DA	Development Application
Department	Department of Planning, Industry and Environment
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
Minister	Minister for Planning and Public Spaces
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
SEPP	State Environmental Planning Policy
Three Ports SEPP	State Environmental Planning Policy (Three Ports) 2013
TfNSW	Transport for NSW

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1 Introduction

1.1 Preamble

This report provides the NSW Department of Planning, Industry and Environment's (the Department's) assessment of an application to modify the development consent, DA-42-10-2007-i (consent) to allow the stacking height of containers within the Tyne Empty Container Storage Park at Port Botany (**Figure 1**) to be increased.

The application has been lodged by Key Urban Planning on behalf of Tyne Container Services (Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The modification application seeks approval to further increase the maximum stacking height by one (from six to seven containers).



Figure 1 | Aerial showing the site location in the context of South East Sydney (Source: Nearmap 2021)

1.2 Background

The site is located at 11 Simblist Road, Port Botany (Lot 101, DP 1182871) (subject land) and contains the existing Tyne Empty Container Storage Yard. The irregular shaped allotment has an approximate 220 metre frontage to Simblist Road and a total area of 1.443 hectares. The subject land contains an existing empty container storage depot and adjoins (to the south-west) a container storage facility also operated by the Applicant (see **Figure 2**).

Existing developments adjoining the subject land are the Terminals Pty Limited filling station and bulk liquid storage tank to the north east, and the Qenos and Vopak bulk liquid storage tanks to the north-west and west, respectively. The visual character of the subject land and surrounding area is predominantly port related activities with the surrounding landscape being dominated by large petroleum tanks and container cranes associated with port-related activities. The subject land is predominantly screened from view from the foreshore area of Yarra Bay and Frenchman's Bay by a revetment wall adjoining Prince of Wales Drive which is approximately 8.5 metres high. The subject land is in a container park precinct located on the edge of the Port Botany Lease Area and currently operates as a 24-hour empty container storage depot.



Figure 2 | Site in context of Port Botany with the subject land identified (Source: Nearmap 2021)

1.3 Approval History

On 22 February 2008, the then Minister for Planning granted consent to a Development Application (DA-42-10-2007-i) for the construction and operation of a 24-hour empty container storage depot. The consent approved the following construction works:

- clearing of grass and scrub understorey; levelling, regrading and sealing of some ground surface using recycled asphalt and a layer of cement mix
- construction of drainage controls, including a retention drain along the site boundary and a stormwater basin at the centre of the site
- construction of a 2.25 metre high security fence along the site boundary
- establishment of an office (comprising an 18 metre long, 2.4 metre wide and 2.6 metre high modified insulated container) and amenity building (comprising a six metre long, 2.4 metre wide and 2.6 metre high modified insulated container)
- two 12 metre vehicle access ways onto Simblist Road, provision for onsite truck queuing, and six parking spaces for staff (and visitors if required)
- advertising signage and landscaping in accordance with the *Exempt and Complying Development Guidelines for Port Botany (December 2005)*.

The operation approved under DA-42-10-2007-i involved:

- 24-hour, seven day a week operations
- a maximum storage capacity of 1,445 containers (i.e. 20 metre containers), with a maximum stack height of five containers
- container stacks set back from the site boundary by at least three metres
- use of forklifts to load and unload containers to and from trucks, with up to 80 trucks expected per day (eight to 10 truck movements per hour on average)
- refuelling and minor servicing in a dedicated, bunded area; and use of sweepers and water carts for dust suppression.

The approved site layout is shown in **Figure 3**.

- (3) A container stacking management plan must be prepared in relation to the development and kept at the site.
- (4) The land on which the development is carried out must be sufficiently firm and level to safely support the shipping containers.
- (5) This clause does not apply to the loading or unloading, delivery or distribution of goods into or out of shipping containers.
- (6) This clause is repealed 6 months after it commences.
- (7) In this clause—

container stacking management plan means a plan of management for the stacking of shipping containers, which includes the following information—

- (a) a risk assessment of the site to identify potential issues and strategies or procedures to mitigate the issues identified in relation to the development,
- (b) options for the ongoing management of the development on the site, including procedures for carrying out the development safely and allowing appropriate space for the movement and use of operational equipment and vehicles,
- (c) an assessment of the requirements for the monitoring of weather at the site in relation to the development.

On 6 May 2021, the Three Ports SEPP was amended to change the repeal date of clause 29A(6) to 8 November 2021. Clause 29 was repealed on 8 November 2021.

On 12 November 2021, the Three Ports SEPP was again amended (*State Environmental Planning Policy (Three Ports) Further Amendment (Shipping Containers) 2021*) which added “shipping container storage and stacking” as Complying Development under the Three Ports SEPP (clause 33, Schedule 2). Clause 33 is intended to have the same effect as the repealed clause 29A, Schedule 1, with several key differences, such as allowing the storing and stacking of containers as complying development, requiring written notice to be given to the owners of adjoining land, and not having a sunset clause.

1.5 Adjacent Container Storage Yard

In 2020, the Applicant commenced the operation of a container storage yard to the south west of the subject land. As part of this development, the existing internal access road was moved closer to Simblist Road on an adjoining allotment. It is understood that both sites operate as one, sharing staff, equipment, offices, and the internal access road (**Figure 4**). During this time, the stormwater detention basin in the centre of the subject land was replaced with an underground stormwater storage system. These works were undertaken as exempt and/or complying development under the Three Ports SEPP and therefore will not be assessed in this report. The Department will only be assessing the potential impacts of raising the stacking heights of containers in the subject land.

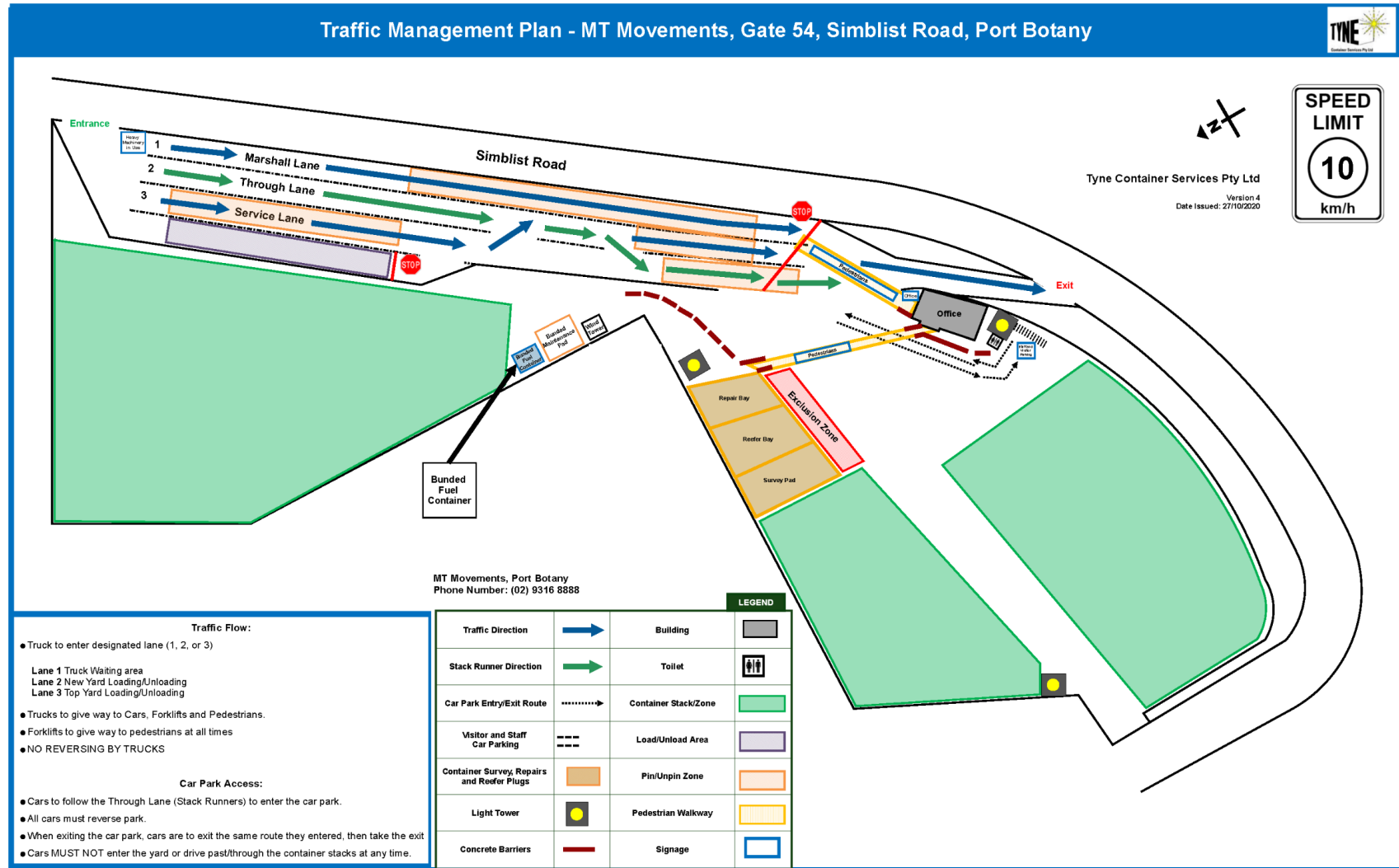


Figure 4 | Traffic management plan showing vehicle movements between both sites and location of shared facilities (Source: Statement of Modification and Environmental Effects, 2021)

2 Proposed Modification

On 30 September 2021, the Applicant lodged a modification application (DA-42-10-2007-i MOD 2) seeking approval, under section 4.55(1A) of the EP&A Act, to modify the consent as modified by DA-42-10-2007-i MOD 1.

The modification application seeks approval to allow empty containers to be stored at a height of seven containers. The consent, as modified by MOD 1, allows containers to be stacked up to six high (**Figure 5**). This was increased from five containers in the original consent. The modification is proposing to increase the container storage capacity from 1,445 container limit to 1,829 containers. The Applicant is not seeking to increase the maximum 80 truck per day limit and expects that the additional containers can be moved without exceeding this limit.

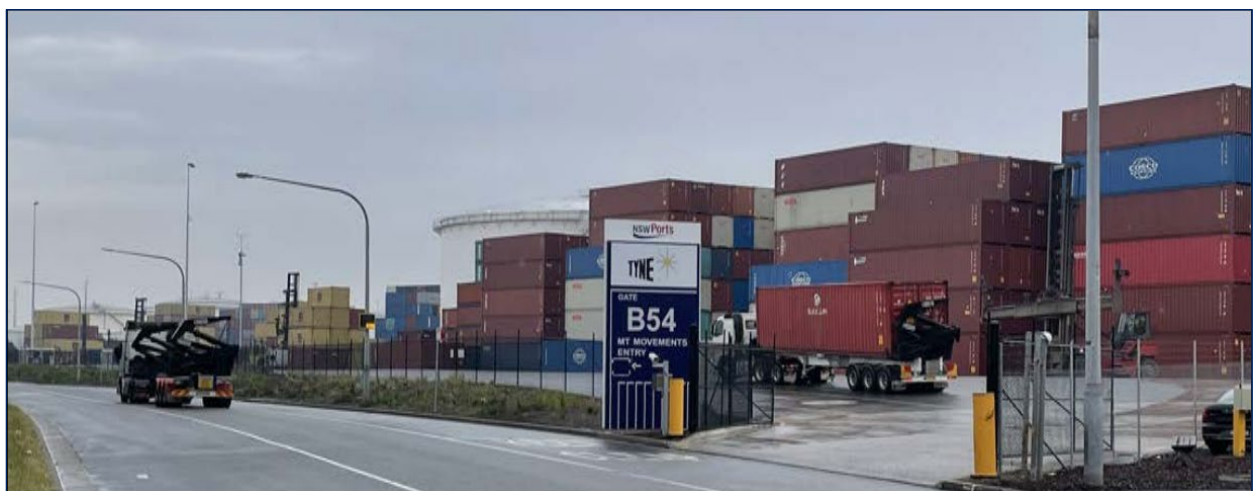


Figure 5 | The site with containers tacked six containers high (Source: Statement of Modification and Environmental Effects, 2021)

The Applicant is also seeking to modify the consent to require a Container Stacking Management Plan (CSMP). A CSMP is a plan of management for the stacking of shipping containers which includes:

- a risk assessment of the site to identify potential issues and strategies or procedures to mitigate the issues identified in relation to the development
- options for the ongoing management of the development on the site, including procedures for carrying out the development safely and allowing appropriate space for the movement and use of operational equipment and vehicles
- an assessment of the requirements for the monitoring of weather at the site in relation to the development.

A CSMP has been submitted with the modification documents, in addition to the site's safe working procedures, a traffic management plan, a visual assessment, and a geotechnical report confirming the suitability of the surface. The proposed container stacking plan is shown in **Figure 6**.

The Applicant is seeking to modify the consent to insert wording that is generally consistent with the repealed Clause 29A, Schedule 1 and the recently added Clause 33, Schedule 2 of the Three Ports SEPP.

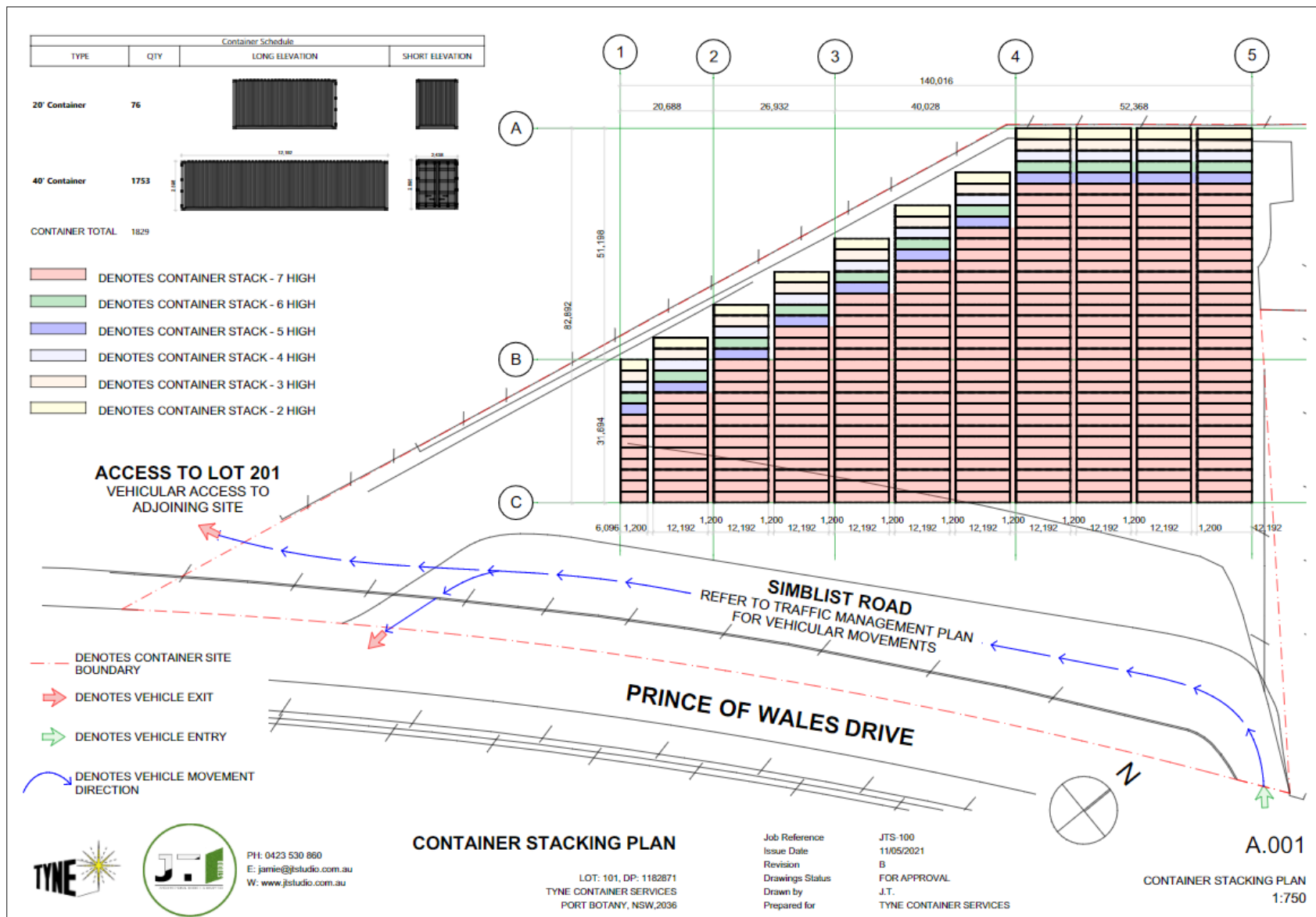


Figure 6 | Container Stacking Plan submitted with the application (Source: Statement of Modification and Environmental Effects, 2021)

The modification also includes minor administrative changes to reflect recent changes in Departmental process, agency names and standard terminology. The recommended changes are listed in **Table 1**.

Table 1 | Modifications to the Conditions of Consent

Condition	Approved Condition Intent	Proposed Change	Justification
1.1	Condition 1.1 lists the documents that the development must be carried out in accordance with.	Modify the condition to include the Statement of Modification and Environmental Effects and the Response to Submissions Letter.	The project must be carried out in accordance with these two documents.
1.2	In the event of an inconsistency, the conditions and the most recent document in 1.1 prevails	Modify the condition to include changes made to 1.1.	Ensures that the modification report and Response to Submissions Letter prevail in the event of an inconsistency.
2.18	<i>New Condition</i>	Limits empty container stacking height to 7 high and requires the site to have adequate drainage.	To allow empty containers to be stack 7 high (instead of the approved 6). Wording is generally consistent with the Three Ports SEPP.
2.19	<i>New Condition</i>	Requires that a Container Stacking Management Plan (CSMP) be prepared and lists what information is to be included.	The CSMP will identify hazards, risks, mitigation measures, procedures, and assessments to facilitate safe use of the site.
2.20	<i>New Condition</i>	Requires that the CSMP be kept on site, and a copy provided to the Planning Secretary, NSW Ports and adjoining leaseholders.	To ensure on-site staff, NSW Ports and neighbouring leaseholders understand identified hazards, risks, mitigation measures, and procedures that will apply.
2.21 - 2.22	<i>New Conditions</i>	Requires the ground to be sufficiently firm and level to safely support the shipping containers. Requires that a revised Geotechnical Report be submitted to the Planning Secretary every 12 months from the date of approval to confirm the suitability of the existing platform until such time that the surface is replaced with a concrete hardstand platform.	Requirement for sufficiently firm and level surface is consistent with the Three Ports SEPP. The Geotechnical Report assessed by the Department confirmed the suitability of the existing hardstand platform for 6 to 10 months. The new condition is to ensure that the existing surface is inspected every 12 months until it is replaced.
2.23	<i>New Condition</i>	The Relevant Australian Standard must be applied at all times as part of the site operations.	To ensure Relevant Australian Standards are followed.

2.24	<i>New Condition</i>	Depending upon wind direction and the height of stacked containers, and in addition to the Relevant Australian Standard, the safety requirements listed in Appendix A must be implemented by the container park operator.	To ensure safe operation, the requirements in Appendix A and the Relevant Australian Standard are to be implemented.
2.25	<i>New Condition</i>	The container park Operating Safety Plans listed in Appendix A are to be reviewed annually, and if necessary, updated when neighbouring land uses change, or when a new Container Stacking Management Plan is prepared.	To ensure that Operating Safety Plans are updated and relevant.
General Housekeeping		The Department has recommended a number of minor changes be made to the definition table reflect new agency, and Department names.	
Appendix A		<p>Insert a new Appendix A – Container Stacking Safety Requirements</p> <p>The Container Stacking Safety Requirements have been developed from recommendations made by submitters and the Applicant and are to be implemented to ensure the safe operation of the container storage yard.</p>	

3 Strategic Context

Sydney is currently experiencing a lack of empty container storage capacity. The proposal seeks to increase the storage capacity of the subject land, which will increase container storage capacity in the Sydney metropolitan region. The Department understands that similar proposals to increase the height of container stacking consistent with the Three Ports SEPP have been submitted to relevant consent authorities for a number of other container storage yards.

A Metropolis of Three Cities

The proposal will meet the objectives of the Sydney region plan by protecting freight operations in Port Botany and expanding existing operations to ensure that the freight and logistics network is competitive and efficient.

Eastern City District Plan

The proposal will meet the priorities of the *Eastern City District Plan* (Greater Sydney Commission, 2018) by increasing Port Botany's container storage capacity to meet future demand and will result in more containers being stored in closer proximity to the port berths, resulting in reduced vehicle movements to container depots outside the port.

Future Transport 2056

The proposal will assist in meeting several key goals and initiatives in *Future Transport 2056*, namely by supporting mobility and job creation through its operations and infrastructure investments and ensuring the efficient movement of freight and goods.

NSW Ports Plan 2018-2023

The *NSW Freight and Ports Plan 2018-2023* contains key initiatives and targets to make the NSW freight task more efficient and safer so NSW can continue to move and grow. A key goal of the *NSW Freight and Ports Plan 2018-2023* is to improve the flow of freight through trade gateways and specifically improve the movement of empty containers into and out of Port Botany. Empty containers make up the majority of export containers from Port Botany. Current inefficiencies in the NSW empty container supply chain result in an estimated additional cost to the supply chain of \$49 million per year. The proposal will assist in meeting this goal and subsequently reducing the fiscal consequences of the current inefficiencies in the NSW empty container supply chain.

Navigating the Future – NSW Ports' 30 Year Master Plan

The proposal will assist in meeting the objectives of the *NSW Ports 30 Year Master Plan* in regard to using land and infrastructure efficiently by stacking containers to the maximum permitted height and using all suitable areas for the storage of containers.

4 Statutory context

4.1 Scope of modifications

Section 4.55(1A) of the EP&A Act provides that a consent authority may, on application being made by the Applicant or any other person entitled to act on a consent granted by the consent authority, and subject to and in accordance with the *Environmental Planning and Assessment Regulations 2000* (Regulations), modify a consent if the following requirements in **Table 2** are met:

Table 2 | Consideration under section 4.55(1A) of the EP&A Act

Section 4.55(1A) - Evaluation	Comment
a) <i>That the proposed modification is of minimal environmental impact</i>	<p>Section 6 of this report provides an assessment of the impacts associated with the proposal.</p> <p>The Department is satisfied that the proposal will have minimal environmental impact.</p>
b) <i>The development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)</i>	<p>The Department is satisfied that the development to which the consent as modified, relates is substantially the same development as the development for which consent was originally granted.</p>
c) <i>The application has been notified in accordance with the regulations</i>	<p>Clause 117(3B) of the <i>Environmental Planning and Assessment Regulation 2000</i> (EP&A Regulation) specifies that the notification requirements of the EP&A Regulation do not apply to section 4.55(1A) modifications with minimal environmental impact. Notwithstanding the Department made the proposal publicly available on its website and referred it to relevant agencies for comment.</p>
d) <i>Consideration of any submissions made concerning the proposed modification within the period prescribed by the regulations</i>	<p>The Department has considered submissions received on the proposal (refer to Section 5 and 6 of this report).</p>

The Department has reviewed the scope of the proposal and considers that the application can be characterised as a modification involving minimal environmental impacts as the proposal:

- would not increase the environmental impacts of the project as approved

- is substantially the same development as originally approved
- would not involve any further disturbance outside the already approved disturbance areas for the project.

Therefore, the Department is satisfied the proposal is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application.

The Applicant has provided landowner consent which confirms that Port Botany Lessor Pty Ltd (the landowner) has consented to the Applicant lodging the Application for an increase in the height of container stacking.

4.2 Consent authority

The original development application was determined by the then Minister for Planning and remains as the consent authority for any subsequent applications to modify the consent.

In accordance with the Minister's delegation of 26 April 2021, a Team Leader or Principal Planner may determine the proposal as:

- no reportable political donation has been disclosed
- there are no public submissions in the nature of objections
- the council has not made a submission by way of objection under the mandatory requirements for community participation in Schedule 1 of the EP&A Act.

The proposal meets the terms of this delegation, and the Principal Planner, Transport Assessments may determine the Application.

4.3 Mandatory matters for consideration

The following environmental planning instrument (EPI) is relevant to the proposal:

- *State Environmental Planning Policy (Three Ports) 2013* (Three Ports SEPP)

The Department conducted a comprehensive assessment of the proposal against the mandatory matters for consideration in its assessment of the original development application. The Department considers the proposal does not result in any significant changes that would alter the considerations and conclusions made as part of the original assessment.

4.4 Consistency with the Three Ports SEPP

The Three Ports SEPP applies to land that is identified within the 'Land Application Map' contained in the SEPP. The subject land is located within the area identified under the Land Application Map. Clause 8 of the SEPP identifies the Minister for Planning and Public Spaces as the consent authority.

The site is zoned SP1 Special Activities zone under the SEPP. The current approved use of the site is defined as "port facilities" under the Dictionary at clause 4 of the SEPP. The Department considers the proposal to be consistent with the zone objectives identified in the Land Use Table.

The *NSW Ports Development Code* (the Code) applies to all new developments in the Port Botany lease area. The Code includes criteria prohibiting container stacks that exceed 6 containers. As the criteria in the Code only applies to new Development, this provision does not apply. Additionally, recent amendments made to the Three Ports SEPP allowing container stacks up to 7 high has effectively overridden this stacking limit. As such, the Department has not assessed the proposal against the Code.

4.5 Relationship with the Major Projects SEPP

The development consent (DA-42-10-2007-i) was approved by the then Minister for Planning as a Part 4 Development Application (DA) under the *State Environmental Planning Policy (Major Projects) 2005* (Major Projects SEPP).

After the approval of the development application on 22 February 2008, the Major Projects SEPP was amended by *SEPP (Major Projects) Amendment (Three Ports) 2009*, however the legislation applicable at the time the DA was determined remained applicable at the time DA-42-10-2007-i MOD 1 was determined. At the time MOD 1 was determined, the Major Projects SEPP was referred to as *State Environmental Planning Policy (Major Development) 2005*.

Upon the making of the Three Ports SEPP in 2013, the relevant clauses in the Major Projects SEPP were repealed. Clause 11, subclause 3 of the Three Ports SEPP includes a savings provision for Part 5 development applications, requiring that the “Three Port” clauses in the Major Projects SEPP (now *State Environmental Planning Policy (State Significant Precincts) 2005* but referenced as *State Environmental Planning Policy (Major Development) 2005* in the Three Ports SEPP) continue to apply.

Although this clause (and the SEPP) does not apply in this situation as the development was not a Part 5 DA, the Department has considered the proposal to be consistent with the Major Projects SEPP.

5 Engagement

5.1 Department's engagement

Clause 117(3B) of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) specifies that the notification requirements of the EP&A Regulation do not apply to section 4.55(1A) modifications with minimal environmental impact. Accordingly, the application was not required to be publicly exhibited, however, it was made publicly available on the Department's website and was referred to relevant agencies for comment.

The application was made publicly available on its website from 5 October 2021 to 22 October 2021. Additionally, the Department notified the local State MP and neighbouring leaseholders Vopak Terminals Australia Pty Ltd (VTA) and Qenos Pty Ltd.

Elgas, P&O Trans Australia, and Patrick Port Services all made submissions on the original application. The Department notified Elgas and Qube (the successor to P&O Trans Australia and Patrick Port Services) in writing. No submissions were received from either Elgas or Qube.

5.2 Summary of submissions and agency advice

During the exhibition period, the Department received a total of three (3) submissions on the proposal. Of the submissions received, two were from organisations (Qenos and VTA), and one was from Randwick City Council. All three submitters provided comments, and no submissions either objecting or supporting the proposal were received.

The Department also requested advice from NSW Ports, the Environment Protection Authority (EPA), and Transport for NSW (TfNSW).

5.3 Key issues raised in submissions

The following issues were raised by **Qenos**:

- taller stacks increase the risk of a container falling onto the Qenos property resulting in either injury to personnel carrying out site boundary patrols or rupturing the Caltex Transfer Pipeline (CTP) within the Botany Loading Bay (BLB) Pipeline Corridor causing a release of hydrocarbon and creating a potential explosion incident
- stacking containers parallel to the boundary fence increases the risk of them falling onto Qenos property, noting that a container fell onto the Pipeline Corridor in December 2015
- the application does not acknowledge the presence of the pipeline, neighbouring land-uses, or what will be implemented to prevent a container falling onto the pipeline corridor
- there is no justification for the modification.

VTA raised the following issues:

- the Modification Application does not consider the B4A expansion project operated by Vopak, and off-site risks have not been considered
- no additional controls have been suggested to manage traffic risks

- no quantitative risk assessment has been undertaken
- the risk assessment does not consider off-site impacts and potential consequences and mitigation prior to or during high wind conditions
- wind velocity effects have not been captured for stacked containers and there is no information on the proactive action to be taken in a situation where there is a potential for high wind and stacked containers to be dislodged
- the plan does not adequately cover keeping buffer capacities or lowering the stack height in case of heavy winds
- questioned what plan is in place to ensure that the surface remains suitable for the increased stacking height once the 10 month period identified in the geotechnical assessment ends.

Randwick City Council raised no objections and noted that the proposal is generally consistent with (the then) clause 29A Schedule 1 of the Three Ports SEPP and that the expected visual impacts will be minor.

The Department has considered the comments in **Section 6** of this report.

5.4 Key issues raised by Government agencies

NSW Ports advised that they manage the port and freight assets of Port Botany and are supportive of the proposal. NSW Ports noted that the proposal documentation addresses concerns around stacking containers during high winds, and that containers that directly face prevailing winds will not be stacked 7 high. NSW Ports also notes that the proposal meets the strategic objectives and goals identified by NSW Ports and TfNSW.

EPA indicated that it had no comments.

TfNSW was invited to provide advice, however, no comments were received.

6 Assessment

In assessing the merits of the proposal, the Department has considered the:

- modification application and associated documents (**Appendix A**)
- original Environmental Assessment and conditions of approval, as modified
- submissions received on the proposal
- relevant environmental planning instruments, policies and guidelines
- the requirements of the EP&A Act.

The Department considers the key assessment issue to be the potential hazard of falling containers, in particular, the potential for containers to fall onto neighbouring sites that primarily deal with hazardous materials.

6.1 Hazards and Risks

The Applicant is seeking to increase the stacking height of containers from the approved six containers up to seven containers. The Department understands that the Applicant has been stacking containers seven high since November 2020 in accordance with former clause 29A Schedule 1 of the Three Ports SEPP.

Land uses neighbouring the subject land are classified as “major hazard facilities” under the *Work Health and Safety Regulation 2017*. Vopak operates the B4 bulk storage facility (SSD 7000) to the north-west of the subject site and the CTP which is within the BLB Pipeline Corridor. Qenos operates a hydrocarbon facility, to the north/north-west of the site, and Terminals Pty Ltd operates a bitumen facility to the north/north-east of the subject site (**Figure 7**). The BLB pipeline corridor which runs adjacent to the subject site is understood to contain only one pipeline, the CTP, which connects the southern bulk liquid storage terminals with the Caltex pipeline running between Sydney Airport and their Kurnell facility. The CTP is underground, however its depth and exact location within the BLB corridor is not known.

Both Qenos and VTA had concerns about the possibility of containers falling from the subject land during high wind conditions, potentially damaging their facilities, the CTP, or injuring their personnel. Qenos advised that in December 2015 a container fell from a container stack on the subject land onto the BLB corridor. The Applicant confirmed that this is the only incident of a container falling since development approval was given in 2008. At the time, the Applicant stacked containers lengthwise parallel to the north-west fence (**Figure 8**). It is understood that the container fell due to a sudden wind gust and no damage occurred to the BLB corridor.



Figure 7 | The subject site and surrounding land uses (Source: Nearmap 2021)

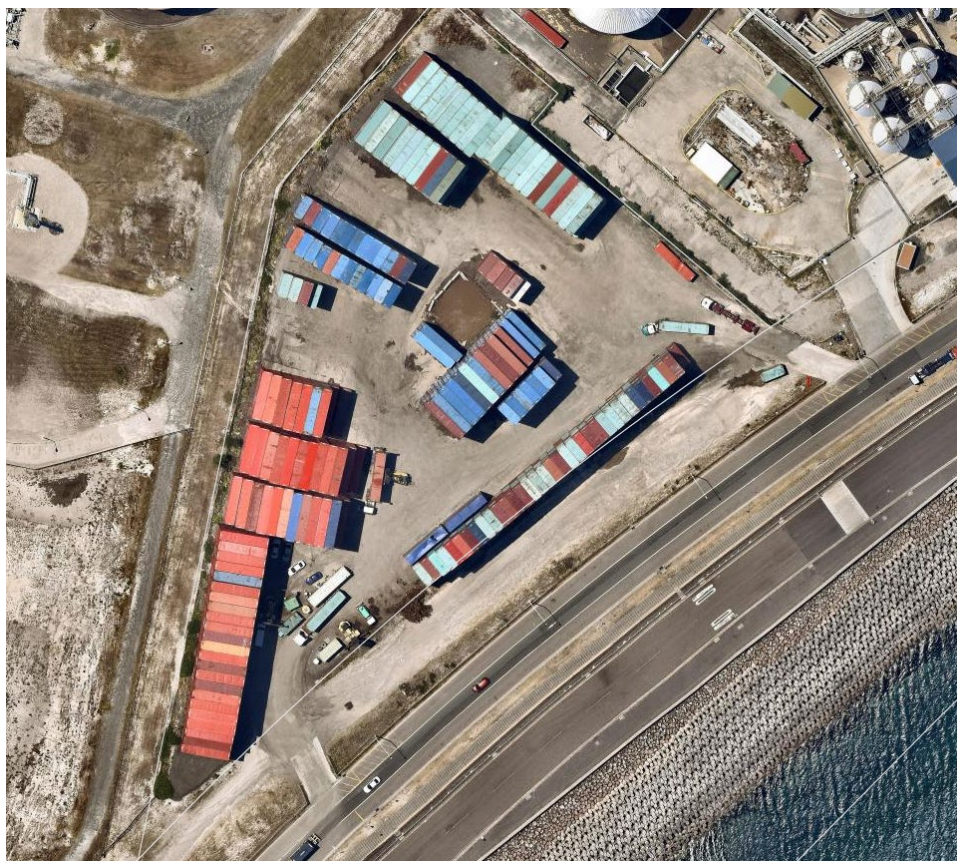


Figure 8 | Stacking configuration at the time the container fell (Source: Nearmap, Dec 2015)

Since the stormwater basin in the centre of the site was removed in 2020, the Applicant has changed the stacking configuration (**Figure 7**) so that the majority of container stacks no longer face the prevailing winds.

The Applicant has also committed to not stacking containers seven high if the stack directly faces the prevailing wind. The *Container Handling & Stacking Procedure* prepared by the Applicant also specifies that containers are to be pyramid stacked away from the fence line. The supervisor on site will monitor the weather at all times and will follow the procedures outlined in the *Weather Monitoring and Container Park Securement Procedure* to protect human life and prevent containers from falling. NSW Ports is satisfied with the safety plans and procedures and believes that the plans and procedures address the concerns raised by the neighbouring leaseholders.

In response to the submissions, the Applicant suggested conditions to ensure that container storage operations are safe and carried out in accordance with relevant standards. The Department has recommended the Applicant's conditions be included in the modified consent.

The Department has recommended the inclusion of additional safety procedures in the Container Stacking Management Plan (CSMP). These requirements, including risk assessments, risk audits, emergency response protocols, and consideration of the pipeline, will ensure the safe operation of the modified development. The Department has recommended that the Applicant undertake an annual review of the relevant safety requirements and plans to ensure that the safety procedures and the CSMP are relevant and consider any changes to land uses in the surrounding area

The recommended consent also includes container stacking safety requirements to be implemented by the container park operator, such as:

- block stacking empty containers along the boundary fences in accordance with the CSMP
- ensuring boundary stacks are stacked in rows parallel to the prevailing winds and positioned to allow sufficient wind tunnelling, and level with no isolated containers on top of the stacks
- implementing buffer areas inside yards during seasonal weather periods
- the installation and use of early warning weather devices.

The Department has also recommended that container storage park operating safety plans submitted as part of the application be implemented to ensure safe operation. This includes the following procedures:

- *Container Handling & Stacking Procedure* – this outlines the key requirements for managers and operators when dealing with empty containers. This will apply to all staff dealing with empty container parks on Tyne Container Services sites
- *Weather Monitoring and Container Park Securement Procedure* – this includes specific processes to be followed when dealing with empty containers during unstable weather and/or when there is potential for unstable weather. This plan will apply to all workers managing empty containers on Tyne sites and all workers are to be trained to understand the procedures in this plan
- .

The Department is satisfied that the above procedures and commitments will minimise the potential for a container to fall and the risk of damage to the CTP within the BLB corridor. The recommended conditions of consent will require the Applicant to consider potential high wind events and implement procedures to mitigate risks. The Applicant will be required to consider risks associated with neighbouring land uses

and the BLB Pipeline Corridor and include strategies or procedures to mitigate the identified risks. The CSMP will also include emergency response protocols, including communications with neighbouring facilities during high wind events. The Department considers that the additional safety procedures required by the recommended conditions would reduce potential risks.

6.2 Other Issues

The Department has assessed Stormwater, Traffic, Project Justification and the suitability of the hard stand to support seven-high container stacks.

Stormwater

The consent included a stormwater detention basin in the centre of the subject land. In August/September 2020, the detention basin was replaced with a Spel Stormchamber detention tank, which collects surface water and disperses the water into the ground. The detention tank was installed as exempt development in accordance with the Three Ports SEPP. To ensure that stormwater is contained within the subject land, it is recommended that containers be located on the site such that surface water run-off drains to a stormwater drainage system or to a landscaped area. The Department is satisfied that the installed underground stormwater storage system and the recommended stormwater condition adequately addresses stormwater/surface water runoff.

Traffic

The Applicant submitted a Traffic Management Plan (TMP) which identifies vehicle movements, risks, and recommended traffic safety controls. Although the maximum number of containers is being increased from 1445 to 1829, the Applicant is not seeking to increase the maximum 80 truck per day limit and expects that the additional containers can be moved without exceeding this limit.

It is noted that the internal access road provides for truck queuing and the loading and unloading of containers for both facilities and is located outside the subject land. The Department is therefore satisfied that there will be no traffic impacts associated with the proposal and has not recommended any additional requirements.

Project Justification

In its submission, Qenos questioned the justification for a permanent increase in container storage. The Applicant and NSW Ports states the proposal meets the objectives of the *NSW Ports Master Plan*, in particular Objective 3 – Use Land and Infrastructure Efficiently, in relation to meeting trade demand, maximising land use and empty container park utilisation.

The Applicant and NSW Ports also believe that the proposal meets key goals in *NSW Freight and Ports Plan 2018-2023* to improve the flow of freight through trade gateways and specifically improve the movement of empty containers into and out of Port Botany. Empty containers make up the majority of export containers from Port Botany. Current inefficiencies in the NSW empty container supply chain result in an estimated additional cost to the supply chain of \$49 million per year. The proposal will assist in meeting this key goal and subsequently reducing the fiscal consequences of the current inefficiencies in the NSW empty container supply chain.

NSW Ports also provided advice on container storage, identifying that Sydney is currently experiencing a lack of empty container storage capacity and proposals to increase storage capacity for empty containers in and near Port Botany are required to support the entire supply chain.

The Department notes that the proposal is consistent with the recently amended Three Ports SEPP which permits shipping container storage and stacking to a height of seven containers (empty) as complying development, subject to the implementation of a CSMP and for written notice to be given to adjoining land owners. In this case, the Applicant has submitted a CSMP and has consulted adjoining leaseholders.

The Department is satisfied that the proposal is justified as it will increase empty container storage capacity in Sydney.

Ground Stability

The Department requested geotechnical advice on the existing hard stand platform and its capacity for container stacking up to seven high, noting that containers have been stacked seven high since November 2020. The Applicant's advice confirmed the platform is robust enough to provide working space and stacking strength for the implied reaction thrust of seven containers stacked on the surface, for six to ten months.

In their submission, VTA noted that the assessment only confirms the suitability of the platform for six to 10 months and questioned what will happen after 10 months. The Applicant advised that it is their intention to replace the existing surface with a concrete surface in the near future. This work will be undertaken as exempt and/or complying development under the Three Ports SEPP and has not been assessed in this report.

The Department has recommended a new condition requiring that a Geotechnical Report be completed every twelve months from the date the proposal is determined until the existing hardstand platform is replaced with a concrete hardstand platform. This is to ensure that the subject land is suitable for stacking containers seven high if the Applicant decides to not proceed with replacing the hardstand. The recently amended Three Ports SEPP (clause 33, Schedule 2) requires that "the land on which the development is carried out must be sufficiently firm and level to safely support the shipping containers." This requirement has been recommended as a condition in the modified consent. The Department is satisfied that these conditions will ensure the suitability of the subject land to support seven-high container stacks.

7 Evaluation

The Department has assessed the modification application and supporting information in accordance with the requirements of the EP&A Act and considered the submissions provided by Randwick City Council, NSW Ports, Qenos and VTA.

The Department's assessment concludes that the proposed modification is appropriate as:

- the modification is of minimal environmental impact and does not have any additional environmental impacts
- it is substantially the same development as originally approved
- the proposal continues to comply with the Three Ports SEPP provisions
- all submissions received during the assessment of the application have been considered.

The Department concludes the impacts of the proposal are acceptable and it is in the public interest. The Department recommends that the application be approved, subject to changes to the existing consent (**Appendix C**).

8 Recommendation

It is recommended that the Principal Planner, Transport Assessments, as delegate of the Minister:

- **considers** the findings and recommendations of this report
- **determines** that the modification application DA-42-10-2007-i MOD 2 falls within the scope of section 4.55(1A) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **modify** the consent DA-42-10-2007-i
- **signs** the attached approval of the modification (**Appendix C**).

Recommended by:

A handwritten signature in black ink, appearing to read 'SKelly', is written over a light blue rectangular background.

Sam Kelly
Planning Officer
Transport Assessments

9 Determination

The recommendation is **Adopted** / ~~Not adopted~~ by:



17 December 2021

Michael Young

Principal Planner

Transport Assessments

as delegate of the Minister for Planning and Public Spaces

Appendices

Appendix A – Modification Report

The supporting documents and supporting information to this assessment report can be found on the Department's website as follows:

<https://www.planningportal.nsw.gov.au/development-assessment/state-significant-applications/projects/state-development-applications>

Appendix B – Submissions

A copy of the submissions is available on the Department's website as follows:

<https://www.planningportal.nsw.gov.au/development-assessment/state-significant-applications/projects/state-development-applications>

Appendix C – Modification of Development Consent

<https://www.planningportal.nsw.gov.au/development-assessment/state-significant-applications/projects/state-development-applications>