

**INQUIRY INTO IMPACT OF PORT OF NEWCASTLE SALE
ARRANGEMENTS ON PUBLIC WORKS EXPENDITURE IN
NEW SOUTH WALES**

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Legislative Council Public Works Committee

*Inquiry into the impact of Port of Newcastle sale
arrangements on public works expenditure in New South
Wales*

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ACCC Litigation

On 10 December 2018 the Australian Competition & Consumer Commission (ACCC) initiated proceedings against the NSW Ports Operations Hold Co Pty Ltd (NSW Ports) in the Federal Court. In the proceedings the ACCC has alleged that NSW Ports entered into certain contracts which included the compensation provisions, which compensation provisions had the purpose and/or the effect of substantially lessening competition in the market for the supply of port services for container cargo in NSW.

Based on the current ACCC pleadings, there are a number of matters within the terms of reference of this Inquiry which could be expected to be matters in issue in those proceedings. Broadly they fall into two categories:

- How the compensation provisions would work and the outcome they were intended to have (Purpose Issue); and
- The effect of the compensation provisions on competition in the market for the supply of port services for container cargo in NSW (Effect Issue).

Relevant to both issues is the extent to which port services for container cargo at Port Botany are regarded, and are in fact, substitutable for users for NSW container freight with such port services at the Port of Newcastle (Substitutability Issue).

In preparing this submission the Government has had regard to the *sub judice* principle so as to avoid the risk of prejudice, or other adverse outcomes, on the ACCC proceedings; and noting that the Legislative Council and its committees, by convention, respect *sub judice* principles when matters are currently before the courts. Whilst the Government has endeavoured to assist the Committee as far as possible in this submission, the need to respect the *sub judice* principle has meant that the Government has been unable to address, or to address fully, certain matters which are expected to be in issue in the ACCC proceedings.

The Government would also, respectfully, submit that the Committee have regard to the *sub judice* principle when questioning witnesses; bearing in mind, for instance, the possibility that witnesses before the Inquiry might also be required to give evidence on the same matters before the Federal Court.

Executive Summary

NSW Government strategies aim to reduce the cost of moving containers for the industry, consumers and taxpayers

Freight and ports policy in NSW has consistently sought to:

- Make better use of existing capacity in roads, rail lines and warehouses to lower transport costs
- Reduce the distance, cost and complexity for moving freight by building on investments in Port Botany due to its close proximity to customers and distribution centres
- Increase the proportion of containers moved by rail to improve efficiency and reduce the growth of trucks on roads
- Plan for container port capacity into the future and avoid unnecessary investment by taxpayers
- Provide certainty and confidence for investment

Investments in and around Port Botany over the past two decades have been coordinated through a consistent and largely bipartisan approach by the NSW and Australian governments. Successive NSW Governments have invested in creating capacity for container freight through Port Botany. Fully using this capacity, before building additional capacity at another port, will maximise benefits to industry, consumers and taxpayers.

This consistent policy has provided the certainty to attract complementary investment by the private sector. Notable examples over recent years include:

- \$120 million investment recently announced by NSW Ports committed for improved rail capacity at Port Botany
- VISA Global Logistics investment in development and operation of container handling facilities at Erskine Park
- \$256 million investment by DP World including new cranes and facilities at Port Botany and additional investment in empty container facilities at Port Botany
- \$160 million investment by Toll Group in a major retail park at Prestons, South West Sydney
- Enfield Intermodal Terminal investment by ACFS Port Logistics and LINX in the provision of container services
- \$60 million investment by GrainCorp to upgrade 13 regional locations to boost rail efficiency
- A joint venture announced by GrainCorp and MCS Grain storage to develop a container packing facility at Cooks River
- \$30 million investment by Pacific National into rail mounted cranes at the Chullora Terminal
- \$500 million investment by Patrick to redevelop and automate its Port Botany terminal
- \$1.5 billion investment by Qube committed to develop a new intermodal freight terminal at Moorebank

- VISA Global Logistics investment in development and operation of container handling facilities
- Investment in the Rooty Hill Regional Development Centre for handling construction materials by rail by Holcim
- Investment by various rail operators in up to 100 new locomotives introduced on the NSW rail network valued at approximately \$5 million each
- \$1 billion investment to expand container port facilities at Port Botany from 2008 including \$300 million invested by Sydney International Container Terminals (subsequently Hutchison) in the third container terminal which commenced operations in 2014¹

The Port leases have resulted in critical port assets being operated with a stronger commercial focus. Commercial operators have a strong incentive to maximise the use of their assets, which together with public and private investment, is helping to lower transport costs for customers.

Overall supply chain costs impact how containers move

Containers are moved based on commercial decisions about the best and most efficient location to pack and unpack, store the goods, and to repack them for distribution to customers.

While 14 million tonnes of container cargo passes through Port Botany, this is a small portion of the 293 million tonnes of freight moved within NSW (excluding coal) each year. The cost of moving imported and domestic goods between warehouses and customers in Sydney and across NSW is a significant driver of overall supply chain costs.

More than 90 per cent of imported containers have an ultimate destination within 60 kilometres of Port Botany and this is unlikely to change in the foreseeable future. Sydney's population will continue to grow and is estimated to reach 8 million people by 2056. This growth will be concentrated in Western Sydney, which a million more people – a city the size of Adelaide – will call home by 2036.

The remaining fraction of imported containers are transported to regional locations across NSW such as Newcastle, Wollongong and the Central West with minor volumes transported interstate.

Port Botany's proximity to large customer markets in Sydney and the cost of moving containers to warehouses and distributing goods to customers across NSW means that Sydney will continue to be the main destination for containers. Port Botany is also the port nearest to the growing Western Sydney market.

Over the past two decades the NSW Government has been investing in infrastructure to support the growing container freight task. For example, Stage 1 of the Port Botany Rail Line Duplication opened in 2002 and construction of the \$1 billion Port Botany Expansion started in 2008 with the third terminal opening in 2014 operated by Hutchison Ports Australia as the third stevedore.

¹ Development consent granted in 2005, construction commenced in 2008.
<https://www.nswports.com.au/assets/Uploads/Consolidated-Instrument-of-consent-MOD-1-15.pdf>

Recent studies commissioned by the Port of Newcastle suggest that a large number of infrastructure projects being delivered in Sydney could be deferred or avoided by having a containerised freight terminal at Newcastle. These studies suggest that little or no Government investment would be needed to do this. This does not reflect the realities of current infrastructure investment, how supply chains currently work and the impact that a new container terminal would have on landside transport networks.

The NSW Government freight policy and subsequent investment in rail freight infrastructure in and around Sydney pre-date the port leases. This investment is required to meet the immediate needs of NSW communities and businesses. The investment is needed regardless of where future capacity for containerised freight will be needed once the operational capacity of Port Botany is reached. The evidence base for the NSW Freight and Ports Plan indicates that there is sufficient terminal capacity at Port Botany to meet the demand for containerised freight in NSW until at least 2045 to 2050.

Any significant volume of containers imported through Newcastle Port needing to be transported back to Sydney by rail would have to use the Main North Line. This would have an impact on the cost of moving containers for customers and would conflict with passenger trains and other rail freight services. Many freight services already use this line including interstate intermodal trains, transporting coal, steel, construction materials and import export freight.

A container freight terminal at Newcastle port would also require supporting investment by government to improve rail networks including the Hunter Valley network managed by ARTC. A container terminal at Newcastle Port would also significantly increase trucks on the M1 Motorway and roads within the immediate vicinity of the port, adding to existing traffic pressures on the M1 and impacting on local communities between Newcastle and Western Sydney. Potential safety issues associated with additional truck traffic on the M1 during peak periods would also need to be considered.

Shipping lines play a key role in the management of empty containers including mandating the length of time that customers have to receive and unpack containers before returning them to a port (generally 5 days from when the import container is offloaded to the wharf). If customers, 90 per cent of which are in Sydney, were to receive imported containers from the Port of Newcastle, it would be challenging to meet the short timeframes for returning containers back to Newcastle, particularly at the volumes identified by the Port of Newcastle.

The economic cost of transporting containers from the Port of Newcastle to distribution centres in Sydney, together with the strong trend in international shipping to consolidate services to fewer ports of call with larger ships and larger exchanges per call, are major factors that affect the viability of container ports located outside Sydney, especially when Port Botany still has significant capacity.

The table below provides a summary of considerations relating to the impact that establishing a container port at Newcastle could have on the existing containerised freight supply chain.

Considerations in establishing a container port at Newcastle	
<p>Commercial supply chain outcomes</p> <p>IMPORTS</p>	<ul style="list-style-type: none"> • Fragmentation in the existing Port Botany to Western Sydney supply chain • The need for significant public and private investment in new supply chain infrastructure and distribution centres • The potential need for import containers to be transported to distribution centres in Sydney for unpacking before trucking containers and some goods back to customers in Newcastle (two way movements over a distance of 190km) • The potential need to split inventory and separate warehousing of goods between Sydney and Newcastle • Increased complexity and reduced utilisation for the supply and return of empty containers. The NSW container freight supply chain is driven by imports which provides empty containers which are then used by exporters.
EXPORTS	<ul style="list-style-type: none"> • Potential impacts for regional export supply chains which consolidate or repackage goods in Sydney before being exported via Port Botany (e.g. wool and cotton packaged into containers at Yennora Intermodal Terminal, less than full container load exports transported on road to Sydney) • Potential challenges for exporters in sourcing empty containers because the majority of import containers could still end up in Sydney
Transport infrastructure needs	<ul style="list-style-type: none"> • Unquantified upgrades to landside rail and road access infrastructure at Newcastle Port • Accelerated upgrades to Northern Sydney Freight Corridor and motorways to handle additional movements of import containers to distribution centres in Sydney and markets in Newcastle
Broader economic impacts	<ul style="list-style-type: none"> • Potentially adding more traffic volumes to motorways and rail corridors between Sydney and Newcastle to cater for additional two-way movements of import containers to distribution centres in Sydney and customer markets in Newcastle • Whether establishing a new container port at Newcastle before it is needed could divert resources allocated to higher priority NSW Government and private sector needs.

Where imported containers go

90%

of containers
stay within 60km
of Port Botany



1 million
more people in
Western Sydney
by 2036



The growing container task



1 million more
people in Western Sydney
by 2036



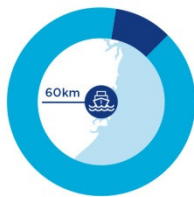
\$5 billion
has been committed
to freight projects in NSW



28% of
containers
by rail to and from
Port Botany by 2021

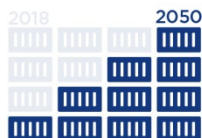


Less than 3%
of motorway traffic
is container trucks



90% of
import containers
stay within 60km
of Port Botany

14 million tonnes
of container cargo passes
through Port Botany



Port Botany
has capacity
to 2050

 Port Botany

Introduction

Since 2011, the focus of the Government's policy, planning and infrastructure agenda for freight and logistics has been on making the freight system and its assets more efficient and capable.

Proceeds from the Government's asset recycling program are supporting the Government's unprecedented infrastructure program. Many of the projects that will improve the movement of people and goods in NSW have been planned for some time but only now have been able to be delivered due to asset recycling.

Our policy, planning and infrastructure agenda is in the interests of customers and producers – and reflects the opportunities and realities of current supply chains.

The NSW port policy first released in 2012², and reinforced in the NSW Freight and Ports Plan 2018-2023, represents the least-cost approach for customers, industry and government and aligns with current freight and logistics systems which are predominantly based in Western Sydney. Our approach is flexible and can cater for future growth driven by new investments such as Western Sydney Airport and Inland Rail as well as the future plans of our ports. NSW freight and port policy:

- Is based on evidence which considers broader market forces and evidence-based population growth and demand forecasts;
- Benefits NSW customers, producers and workers through the accumulated effect of targeted infrastructure investment close to where they live, work and trade – and where these activities are most likely to grow over the next 20 years; and
- Is guided by industry investment and providing certainty for investment which is key to growing the NSW economy.

² Transport for NSW (2012) NSW Freight and Ports Strategy (draft)

NSW freight and ports policy

NSW freight and ports policy has consistently had several key objectives:

- Make better use of existing capacity in roads, rail lines and warehouses to lower transport costs
- Reduce the distance, cost and complexity for moving freight by building on investments in Port Botany due to its close proximity to customers and distribution centres
- Increase the proportion of containers moved by rail to improve efficiency and reduce the growth of trucks on roads
- Plan for container port capacity into the future and avoid unnecessary investment by taxpayers
- Provide certainty and confidence for investment.

These key objectives can be traced back to investments planned from the late 1990s and the Freight Infrastructure Advisory Board (FIAB) which in 2005 recommended that 'trade and demand in the Sydney basin would drive the case for Port Botany and its expansion and that this would be likely to continue for the foreseeable future and makes the economic case for the expansion of Port Botany.'³

The current container ports policy is set out clearly in the recently released NSW Freight and Ports Plan 2018-2023 (NSW Freight and Ports Plan):

The NSW Government policy position is that Port Kembla has been identified as the location for the development of a future container terminal to augment capacity of Port Botany when required. Current arrangements do not prohibit the development of a container terminal at the Port of Newcastle but rather allow for the growth of container volumes through Newcastle that service the region.⁴

The \$1 billion investment in the Port Botany Expansion in 2009 reflects the longstanding policy strategy to use Port Botany for long-term container movement growth.

This policy is also reflected in the State Infrastructure Strategy 2018-2038⁵ and Future Transport Strategy 2056⁶.

The same policy was in effect prior to the port lease transactions, and was reflected in the 2012 draft Freight and Ports Strategy and the State Infrastructure Strategy 2012-2032.

The rationale of this policy is to maximise efficiency and minimise the total cost of container movements to the community, including transport and logistics costs to industry and, importantly, landside infrastructure costs to Governments and ultimately to taxpayers.

³ Freight Infrastructure Advisory Board, 2005, Railing Port Botany's Containers, p.29

⁴ Transport for NSW, NSW Freight and Ports Plan, p.39 and p.81

⁵ Infrastructure NSW (2018) 'State Infrastructure Strategy 2018 – 2038', page 114

⁶ Transport for NSW (2018) Future Transport Strategy 2056, page 22

Making better use of existing capacity

Freight infrastructure investment in NSW over the past two decades has been coordinated through a consistent and bipartisan policy (at both the NSW and Australian Government levels) to make better use of the existing capacity in roads, rail lines, warehouses and intermodal container terminals to lower transport costs.

Our freight policy and subsequent investment in rail freight infrastructure in and around Sydney pre-date the port leases. This investment is required to meet the immediate needs of NSW communities and businesses. The investment is needed regardless of where future capacity for containerised freight will be needed once the operational capacity of Port Botany is reached. The evidence base for the NSW Freight and Ports Plan⁷ indicates that there is sufficient terminal capacity at Port Botany to meet the demand for containerised freight in NSW until at least 2045 to 2050.

Stage 1 of the Port Botany Rail Line Duplication from Marrickville to Mascot was delivered in 2002. The Australian Rail Track Corporation assumed control of the Port Botany Rail Line in 2004 and the Australian Government is now funding subsequent stages recently announced as part of Sydney Gateway.

Other key complementary projects include the Australian Government funded Moorebank Intermodal Terminal (IMT) and the Enfield Intermodal Logistics Centre which was approved for development in 2007. They are important for managing the growth of trucks on roads and maximising the efficiency of existing infrastructure assets within the Sydney basin.

The combination of the projects outlined above with freight infrastructure investment prior to the port leases, including the Southern and Northern Sydney Freight Lines, has provided benefits to import-export (IMEX) freight and other freight markets including interstate intermodal freight, construction materials (cement and aggregates), steel, grains (oil seed and wheat) and waste.

The projects outlined above are critical investments for achieving the NSW Government target of increasing the share of rail freight at Port Botany to 28 per cent by 2021. This will also support the longer-term aspiration of NSW Ports to move three million containers per year by rail by 2045. This target also predates the leasing of major ports in NSW.

Road improvements also play a vital role in reducing transport costs for customers. The Port Botany Landside Improvement Strategy (PBLIS) and implementation of mandatory performance standards for road carriers and stevedores is an example of government action to improve the efficiency of road freight at Port Botany. This has significantly improved performance at the port and the use of landside infrastructure. Truck turnaround times for example, have reduced from up to five hours to under 30 minutes⁸. Appendix 1 shows a timeline for NSW freight policy and investment over the last 20 years.

⁷ Data, performance measures and other statistics underpinning the NSW Freight and Ports Plan are published at <https://www.transport.nsw.gov.au/data-and-research/freight-data> and at <https://opendata.transport.nsw.gov.au/>

⁸ Transport for NSW (2018), NSW Freight and Ports Plan 2018-2023

Recent claims⁹ implying that a large number of freight and non-freight infrastructure projects being delivered in Sydney could be deferred or avoided through developing a container freight terminal at Newcastle Port do not reflect:

- the realities of previously planned investment and the benefits that many major projects provide beyond freight including:
 - catering to broader population and employment growth;
 - providing travel time savings;
 - improved liability by diverting heavy traffic away from local roads;
 - improved reliability and safety for private motorists and other commercial vehicle traffic.
- how supply chains currently work given that distribution centres are necessarily located in proximity to the bulk of final consumers
- the potential impact of a new container terminal on landside transport networks, particularly given capacity issues on the M1 Motorway and Northern Rail Line

NSW Government policy is based on evidence which considers broader market forces and evidence-based population growth and demand forecasts. This demonstrates that NSW customers and businesses benefit from the accumulated and targeted infrastructure investment in close proximity to where people work, live and trade, and where these activities are most likely to grow over the next 20 years.

⁹ See Deloitte Access Economics (2018) 'NSW Container and Port Policy' and AlphaBeta (2018) Global Gateway for NSW: the economic impact of a container terminal at the Port of Newcastle

Why the NSW Government is investing in Sydney's infrastructure

The Terms of Reference for the Inquiry (see Appendix 2) question the 'extent to which limitations on container port operations currently in place following the sale [lease] of the Port of Newcastle contribute to increased pressure for transport and freight infrastructure in New South Wales', with reference to specific projects including WestConnex, Sydney Gateway and Port Botany Line Duplication.

Containerised freight traffic accounts for a small proportion of overall traffic using transport infrastructure across Sydney. Transport projects are largely aimed at realising benefits for private and general commercial vehicles. These points are explained further below.

The NSW Government is delivering projects to address critical gaps in the state's road network. WestConnex, Sydney Gateway, NorthConnex, upgrades to the Pacific Highway and other regional road improvements will provide travel time savings, improved reliability and safety for motorists across NSW. These projects will reduce the cost of transporting goods including rapidly growing ecommerce deliveries to homes, offices, parcel lockers and other drop off locations. Leasing arrangements for major ports in NSW including Newcastle have no connection with these projects.

The WestConnex project is being delivered by the NSW Government and private sector to support the needs of Sydney motorists as the city's population grows from 5 million to 8 million people over the next 40 years¹⁰. WestConnex will support Sydney's long-term economic growth with improved motorway access and connections to Western Sydney and key employment hubs across the city, providing a bypass of up to 52 sets of traffic lights and removing bottlenecks and relieving congestion for hundreds of thousands of road users every day.

On the Sydney motorways, heavy vehicles are a small proportion of overall traffic, accounting for just 13 per cent of vehicles on the M5 and 7 per cent of vehicles on the M4. Trucks carrying containers make up a small subset of all truck movements, making up just 3 per cent of M5 total traffic and less than 1 per cent of M4 total traffic¹¹. Overall, container trucks represent less than 3% of traffic on Sydney motorways¹².

The road component of the Sydney Gateway Project will deliver new motorway connections between WestConnex and Sydney Airport domestic and international terminals, catering for forecast growth in passenger and air freight volumes. Travel time benefits for private motorists and other general commercial vehicle traffic will be the key drivers of overall project benefits. The project will reduce travel times when used with other Sydney motorway connections including saving up to 40 minutes during morning peak times travelling between Parramatta and the Domestic Airport.

These projects are key component of the NSW Government's policy, planning and infrastructure agenda and are addressing critical gaps in the state's transport network.

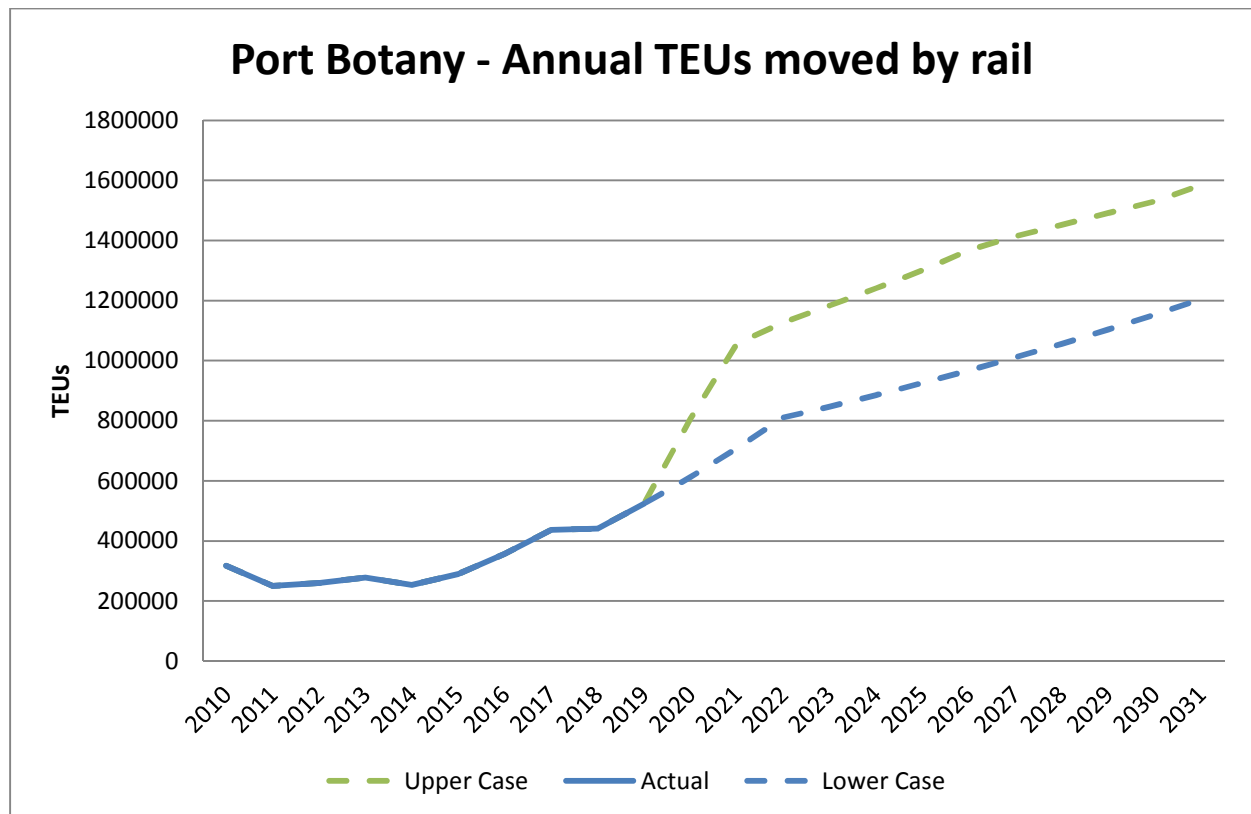
¹⁰ Transport for NSW (2018), Future Transport, Greater Sydney Services and Infrastructure Plan

¹¹ Transport Performance and Analytics, based on Sydney Commercial Vehicle Video Survey (SCVVS) 2014

¹² Transport Performance and Analytics

The NSW Government has also invested heavily to support the increase in shipping containers moved by rail to and from Port Botany. After remaining at around 300,000 TEUs per annum, public and private investment in new rail capacity is forecasted to support the growth in containers transported by rail to and from Port Botany to up to 1.5 million TEUs per annum by 2030/31.

The figure below displays two forecast scenarios for growth in containers transported by rail to and from Port Botany to 2031, both expected to achieve 28 percent rail mode share by 2021.



Various factors will influence the actual rate of growth which will be achieved, including but not limited to:

- new intermodal terminals commencing operations (e.g. Moorebank)
- rail operating equipment and systems upgrades by stevedores (e.g. new overhead stackers)
- rail siding capacity enhancements by stevedores (e.g. Patrick Terminal)
- duplication of the Port Botany Rail Line, and
- Port Botany rail window management improvements

The infrastructure investment required if a container terminal was built at Newcastle port is covered in the next section.

Leasing process and Port Commitment Deeds

The Government's policy for meeting the State's future container trade needs is to minimise costs to customers and taxpayers by realising the full capacity of Port Botany. Port Kembla has been identified as the location for the development of a future container terminal to augment capacity of Port Botany when required. Port Kembla is closer than Newcastle to the existing warehouses in Sydney and closer to the expanding populations in Western Sydney. This has been a consistent position in strategies including the draft NSW Freight and Ports Strategy 2012, NSW Freight and Ports Strategy 2013, NSW Freight and Ports Plan 2018-2023, State Infrastructure Strategy 2018-2038 and Future Transport 2056.

The rationale behind this policy, as discussed elsewhere in this submission, is to maximise efficiency and minimise the total cost of container movements to the community, including transport and logistics costs to industry and, importantly, landside infrastructure costs to Governments and ultimately to taxpayers.

The Government is of the view that the development of a container terminal at the Port of Newcastle would require large road and rail infrastructure upgrades to address congestion/capacity issues that would arise. This would require the State to invest in infrastructure in Newcastle when Port Kembla is closer to container customers, distribution centres and intermodal facilities and has an existing corridor in place which supports dedicated rail freight.

Port Botany and Port Kembla were leased in 2013. Both the draft and final December 2012 NSW Long Term Transport Master Plan stated "Port Botany will continue to serve as NSW's major container port and will be supported to maintain its productivity and competitiveness while managing growing freight volumes."

Both the draft (November 2012) and final (November 2013) NSW Freight and Ports Strategy stated "Over the next 20 years, NSW ports will need to focus on their primary markets. Port Botany will remain the key container port in NSW, given current planning and investments to date" and also stated in the draft (November 2012) and final (December 2013) that "Port Kembla has been identified as the location for the development of a future ("high intensity" – in draft version) container terminal to augment the capacity of Port Botany when required."

This policy position is reflected in the Port Botany and Port Kembla Port Commitment Deeds (PCDs).

When Newcastle Port was leased in 2014, some of the State's obligations to NSW Ports were contractually passed through to the Lessee of Newcastle Port. This arrangement was known to bidders and the ACCC ahead of the transaction and is documented in the Port of Newcastle PCD.

Port Commitment Deeds Nature and Status

In summary, under the Port Botany and Port Kembla Port Commitment Deeds, (PCD) support (in the form of foregone wharfage) is payable by the State to the Port Botany / Kembla Port Manager if all of the following conditions are met:

- Container volumes through Newcastle exceed a threshold level of 30,000 TEUs (twenty-foot equivalent units) as at June 2013 escalated at the higher of 6% pa or the growth rate of container throughput at Port Botany ('excess'). The threshold has to be exceeded for two years. (Container volumes at Newcastle are currently about 10,000 TEU – see below).
- The Port Manager demonstrates to the reasonable satisfaction of the State that Port Botany or Port Kembla is not at full capacity.
- The Port Manager demonstrates to the reasonable satisfaction of the State that container throughput is less than it would have been if Newcastle did not exceed the threshold and that there is a reasonable, material, causal connection between the 'excess' at Newcastle and the reduction in trade at Botany / Kembla.

Under the Newcastle Port Commitment Deed, the financial obligations of the State under this arrangement are passed to the Newcastle Port lessee.

To date, Port of Newcastle has not paid any PCD support related amounts to the State. The State's container trade needs will be able to be accommodated by Port Botany well into the future.

The PCDs are contractual agreements which both NSW Ports and the Port of Newcastle agreed to and signed at the time of each transaction. During the Port Botany/Kembla and Newcastle Port transactions, bidders were aware of the PCD arrangements.

Policy which reflects market demand

The current policy which identifies Port Kembla as a future location for the development of a future container terminal to augment capacity of Port Botany will in the longer term:

- enable future capacity which augments the capacity of Port Botany to ensure continuity of NSW supply chains configured around distribution centres and warehouses in Sydney
- provide the shortest transit distance for imports which are destined for distribution centres and customer markets in Sydney with the cost savings that brings
- allow for growth of containerised trade in the Port of Newcastle
- aim to remove more trucks off Sydney roads by increasing rail mode share via Maldon to Dumbarton rail to Western Sydney distribution centres and customer markets
- capitalise on investments already made in the Sydney metropolitan freight network
- minimise the cost burden on taxpayers that would result from transport infrastructure duplication

The comparative benefits of providing future capacity in Port Kembla were identified as early as 2003 when the Port Kembla Container Terminal Taskforce noted that employment, investment and regional development opportunities for the Illawarra would be generated by a container terminal and associated infrastructure through port expansion. The taskforce also noted that Port Kembla is geographically close to Sydney, and can offer competitive land transport links to service both the Illawarra region and the expanding population and warehousing and distribution hubs in Western Sydney.¹³

Population distribution, end customer markets and import supply chains do not support a case for major State investment in supporting infrastructure at the current time. Some of the challenges that current supply chain configurations may pose for the development of a containerised terminal at Newcastle Port include:

- the need for investment in new supply chain infrastructure and distribution centres which are currently anchored around Port Botany and a large customer base in Sydney;
- The potential need for import containers to be transported to distribution centres in Sydney for unpacking before trucking goods back to customers in Newcastle (two way movements over a distance of 190km)
- the potential need to split inventory and warehousing of goods between Sydney and Newcastle;
- increasing complexity for the supply and return of empty containers; and
- Cost increases in some supply chains for exports which currently involve goods being consolidated and packaged in Sydney before being exported.

¹³ Port Kembla Container Terminal Taskforce (2003), p.52

Policy which stimulates private sector investment

Certainty created by the port leasing process has generated proceeds that support investment back into the NSW economy which directly benefits exporters, customers and the freight industry.

The Port leases have resulted in these critical assets being operated with a stronger commercial focus compared to when they were in the hands of Government. Private port operators have a strong incentive to maximise the value of land use and to attract new tenants to develop under-used land.

In line with statutory and lease requirements, shortly after the commencement of the long-term lease of Port Botany and Port Kembla, NSW Ports released a 30-year Master Plan for future development of the Ports. The Master Plan includes commitments by NSW Ports to deepen isolated sections of the Port Botany Shipping Channel and Brotherson Dock to cater for 10,000 TEU container vessels and facilitate early reclamation works in the Port Kembla Outer Harbour to support long term development of the Outer Harbour. A similar Master Plan has recently been developed by the Port of Newcastle.

Major projects announced or delivered by the commercial port operators since the commencement of leases include:

- Development of Enfield Intermodal Logistics Centre and commencement of a new intermodal operator and industrial property partner to further develop the site (NSW Ports).
- Development of new and improved bulk handling infrastructure at Walsh Point, Kooragang Island and expansion of capacity for fuel storage (Port of Newcastle).
- Plans to invest \$120 million in 'on-dock' rail infrastructure capacity at the three container terminals at Port Botany over 4 years, commencing from mid-2019 (NSW Ports).

Clear and consistent Government policy since the release of the draft NSW Freight and Ports Strategy in 2012, underpinned by leasing arrangements, has been critical in creating certainty for investment in ports by the private sector, including tenants of the Ports.

Notable examples of major investment by tenants of ports in NSW include the recent commencement of a \$256 million capital investment program by DP World¹⁴, including the procurement of new ship to shore cranes and extension of empty container handling capability. In 2014/15, Patrick invested \$500 million in the redevelopment and automation of its Port Botany terminal¹⁵.

Private sector investment in the NSW freight network announced or delivered over recent years is significant and includes:

¹⁴ ACCC (2018) Container Stevedore Monitoring Report 2017/18

¹⁵ ACCC (2015) Container Stevedore Monitoring Report No. 17

- Investment of \$30 million by Pacific National into rail mounted gantry cranes at the Chullora Sydney Freight Terminal¹⁶
- Investment in the Rooty Hill Regional Development Centre for handling construction materials by rail by Holcim¹⁷
- An investment of \$60 million by GrainCorp to upgrade 13 key country sites to boost its rail efficiency¹⁸
- An investment of \$14 million by a joint venture announced by GrainCorp and MCS Grain storage to develop a container packing facility at Cooks River¹⁹
- An investment of \$160 million by Toll Group in a major retail and e-commerce fulfilment centre at Prestons in South Western Sydney²⁰.
- 1.5 billion investment by Qube committed to develop a new intermodal freight terminal at Moorebank²¹
- VISA Global Logistics investment in development and operation of container handling facilities at Erskine Park²²
- Enfield Intermodal Terminal investment by ACFS Port Logistics and LINX in the provision of container services²³
- Investment by various rail operators in up to 100 new locomotives introduced on the NSW rail network valued at approximately \$5 million each²⁴

The net proceeds from the leases, along with other asset recycling proceeds, have enabled significant investment in freight infrastructure which complements this private sector investment. The NSW Freight and Ports Plan has identified \$5 billion in committed key infrastructure projects for freight in NSW.

The NSW Freight and Ports Plan also includes a commitment to continue the delivery of key freight programs and projects in regional NSW, including the Restart NSW funding committed and reserved for Fixing Country Roads (\$543 million) and Fixing Country Rail (\$400 million). The NSW Government is also investing \$21.5 million in improvements to the Main West Line which will provide benefits to freight trains from regional NSW. These programs provide direct benefits to regional producers who export freight through ports in NSW.

¹⁶ See Media Release, Australasian Railway Association, 27 February 2015

¹⁷ Development Application (approved 2013)

¹⁸ Sydney Morning Herald, 11 May 2015, 'GrainCorp to kick off \$60m rail upgrade' [Online] <https://www.smh.com.au/business/the-economy/graincorp-to-kick-off-60m-rail-upgrade-20150511-ggyk63.html> [Accessed 6 December 2018]

¹⁹ Daily Cargo News, August 16, 2017, 'Special Report: Containerisation' [Online] <http://www.thedcn.com.au/special-report-2017-containerisation-cooks/> [Accessed 17 December 2018]

²⁰ Liverpool City Champion, February 6, 2018, 'Toll launches advanced retail and ecommerce centre at Prestons' [Online] <https://www.liverpoolchampion.com.au/story/5211426/160m-toll-centre-is-open/> [Accessed 6 December 2018]

²¹ Qube (2015) Investor presentation

²² Media Release, 2018

²³ Media Release, 2018

²⁴ Transport for NSW estimate, 2019

Current container freight supply chains

The NSW Government, has, and will continue to prioritise transport network investment that meets current needs, supports the efficient use of existing assets and networks and maximises overall benefits for freight customers and markets.

Newcastle Port currently handles around 10,000 TEU per annum and volumes have been around this level for some time.

Various claims have been made regarding the potential market for a containerised freight terminal at Newcastle Port. Recent studies undertaken on behalf of the Port of Newcastle imply that Newcastle Port could initially attract between 459,000 and 575,000 TEU by 2020²⁵, representing approximately 25-30% of total loaded NSW container movements. These estimates assume that all the goods that are generated and consumed in the Newcastle region could be shipped in containers through Newcastle Port.

The location of end markets, supply chain distribution patterns and the implications of future terminal capacity on landside infrastructure do not appear to have been taken into account in these analyses.

Any analysis of catchment size for containerised freight in NSW needs to consider freight production and consumption patterns, the role and catchment areas of the Port of Melbourne and Port of Brisbane, and future infrastructure (such as Inland Rail) which is likely to change the nature of freight movement in NSW.

Unlike some other Australian states, the movement of containerised freight in NSW is dominated by the flow of import containers into Sydney, and is mostly food and non-food consumer goods, intermediate products for manufacturing and construction materials. Food and non-food consumer goods represent around 35 per cent of import volume, however with greater international sourcing of consumer goods, the share is expected to grow to around 50 per cent of imports by 2056.

At present, 90 per cent of import containers remain within 60 km of Port Botany. The remaining 10 per cent are transported to regional locations across NSW, such as Newcastle and Wollongong, with some minor volumes transferred interstate. The importance of Sydney as a destination for imported freight has grown over the past decade with population growth, changes in supply chains and growth in new markets for imported goods. With forecast growth in population and businesses in Western Sydney, it is likely that the majority of the import task will continue to be moved between Port Botany and Western Sydney for the foreseeable future.

Supply chain models used for food and non-food consumer and intermediate goods are also likely to reinforce the importance of Sydney, and specifically Western Sydney, as a location for major distribution centres.

²⁵ See p.xiii of Deloitte Access Economics (2018), NSW Container and Port Policy and p.9 of AlphaBeta (2018) Global Gateway for NSW: the economic impact of a container terminal at the Port of Newcastle

Wholesalers and retailers have centralised their inventory over the last two decades into fewer locations and lower stock levels to achieve higher stock returns relative to sales, and lower their inventory carrying costs. Supply chains for these goods are configured around access to end market customers and domestic freight distribution networks rather than the location of ports.

For example, within several major supermarket supply chains, low volume imported goods are merged with high volume domestic goods at major distribution centres to complete a single delivery to a downstream outlet or customer. Inventory is managed according to product value, distribution costs, store access and customer service levels.

Given the imbalance in trade volumes, empty containers dominate NSW exports. The need for exporters to have ready and reliable access to empty containers and the role of major shipping lines in directing exports of empty containers reinforce the role of major terminals.

By excluding supply chains that distribute freight through Sydney, the number of containers that could be served by facilities at Newcastle Port is likely to be low and to remain low in the foreseeable future. The freight produced and consumed in a region provides a guide to the maximum possible size of a freight market but this is different to the container volumes that are likely to move through a container freight terminal located in that region. The movement of containers is influenced by many factors including warehouse locations, customer locations, inventory management practices, the balance between import and export containers, and availability of shipping capacity, not just the comparative landside transport costs (see discussion in previous sections).

Shipping industry trends

Recent statements regarding the global trend towards larger ships have been made in support for development of a new port terminal in Newcastle²⁶. Analysis of global shipping reveals that while there is a trend towards larger ships exceeding 10,000 TEUs capacity, this trend relates to the primary shipping routes which operate into the hub ports such as Singapore. Shipping routes serving Australia and New Zealand are secondary, operating north-south, using smaller shipping that reflect the overall demand.

The ACCC recently noted that the size of the Australian economy is likely to deter the largest container vessels coming to Australia for the foreseeable future. Consultation undertaken by the ACCC identified a broad range of industry views on the ship size that Australian ports can anticipate becoming the average within the next five years, with estimates ranging from 6,500 to 8,500 TEU. It was observed that that even the lower end of this spectrum would represent a notable increase in the size of ships currently servicing Australian ports²⁷. The ACCC has noted that Australian Ports are well placed to be able to handle larger ships in the future with modest investment, and that all of Australia's stevedores are now well placed to handle vessel sizes up to around 10 000 TEU²⁸.

A recent study undertaken by Victoria University²⁹ considered numerous international examples where aspirational investments overlooked the commercial forces driving the economics of portside and landside logistics with respect to the size and location of new ports, resulting either in the failure of new developments or heavy subsidies to keep the ports operating. This included a new containerised freight terminal developed by the Port of Amsterdam in the 1990s and a new container port at Wilhelmshaven in Germany which opened in 2012. Many of these international examples justified port investment based on broader regional development objectives.

The challenges that Hutchison Ports Australia has faced in securing market share with large and well-established terminals close to mature existing markets in Sydney and Brisbane illustrate the long timeframes needed to grow freight volumes through major new terminals. The ACCC noted that the market share of Hutchison was 6 per cent of national container volumes, and that as a result of these low volumes its terminals were operating at much higher unit costs than Patrick or DP World³⁰. As of November 2018, Hutchinson's Sydney terminal handles 15 per cent of total containerised freight through Port Botany³¹.

²⁶ See AlphaBeta (2018) Global Gateway for NSW: the economic impact of a container terminal at the Port of Newcastle

²⁷ ACCC (2017) Container Stevedore Monitoring Report 2016-17

²⁸ ACCC (2017) Container Stevedore Monitoring Report 2016-17 and ACCC (2018) Container Stevedore Monitoring Report 2017-18

²⁹ Technical Report, supporting Build it – but will they come? A pre-mortem analysis of the Port of Hastings Development Project. Victoria University, 26 August 2014

³⁰ ACCC (2017), Container Stevedore Monitoring Report 2016-17

³¹ Transport for NSW (2018) Cargo Movement and Coordination Centre Monthly Report

Landside infrastructure needs for future port capacity

Improving the use of existing infrastructure continues to be a key part of NSW Government Policy, and improving the efficiency of existing infrastructure and ensuring greater connectivity and access along key freight routes is a key objective of the NSW Freight and Ports Plan. This includes a goal to improve the flow of freight through trade gateways through the use of new technology and outcomes-based regulation. The NSW Freight and Ports Plan also includes initiatives to support the development and operation of intermodal terminals including the Moorebank Intermodal Terminal Road Access Program.

Recent studies undertaken by Deloitte Access Economics and AlphaBeta on behalf of the Port of Newcastle imply that a large number of freight and non-freight infrastructure projects being delivered in Sydney could be deferred or avoided through the development of a containerised freight terminal at the Newcastle Port, with widely diverging estimated or implied savings³². These studies state that minimal or no Government investment would be required to establish a container terminal at Newcastle Port³³. This is not supported by the evidence base which underpins the NSW Freight and Ports Plan.

The development of any new and sizeable container terminal outside Sydney would have significant implications for landside transport networks and would necessitate investment to increase capacity and improve access and connectivity. Rail movements of containerised freight to a terminal at the site proposed for the Newcastle Port would travel on lines used by other rail operators within the Mayfield and Carrington precincts including Liberty OneSteel, Port Waratah Coal Services, Newcastle Agri Terminal, GrainCorp and CBH Newcastle Shiploader (concentrates export).

Parts of the Main North Rail Line are already close to its capacity limits during periods of greatest freight demand. This means significant investment in new infrastructure to duplicate existing sections of the network (i.e. amplify two track sections to four tracks) would be required to provide efficient and reliable access to freight trains between Newcastle Port and intermodal terminals in Sydney.

³² Deloitte Access Economics (2018) 'NSW Container and Port Policy' p.viii states that upcoming investment to support current port freight in Sydney is \$3.1 billion. More recent work by AlphaBeta (2018), 'Global Gateway for NSW: the economic impact of a container terminal at the Port of Newcastle' estimates that a container terminal at Newcastle Port could result in avoided infrastructure costs in Sydney of \$400m. 'Future Proof: Port of Newcastle Container Terminal', speech by Craig Carmody to Hunter Business Chamber Infrastructure Lunch, Friday 30 November 2018 states that new infrastructure to support growth of Port Botany amounts to \$11 billion in direct support.

³³ See Deloitte Access Economics (2018) 'NSW Container and Port Policy' p.58. AlphaBeta (2018), 'Global Gateway for NSW: the economic impact of a container terminal at the Port of Newcastle' includes estimates of avoided infrastructure costs in Sydney but does not discuss landside infrastructure impacts and potential costs at Newcastle Port.

Any significant volume of containers imported through Newcastle Port which had to be transported back to Sydney by rail would have to use the Main North Line which would conflict with passenger trains and other rail freight services. A significant number of freight services already use this line including interstate intermodal trains, coal, steel, construction materials and import export freight. Growing container volumes to levels identified by Deloitte Access Economics and AlphaBeta would generate train movements equivalent to or exceeding the current number of trains currently moving to and from Port Botany which occur on dedicated rail freight infrastructure.

A container terminal at Newcastle Port would also significantly increase trucks on the M1 Motorway and roads within the immediate vicinity of the port.

Various long-term road and rail projects which support freight future capacity projects are identified in the NSW Freight and Ports Plan including Maldon to Dombarton (10 + years), Lower Hunter Freight Corridor (10 + years), Northern Sydney Freight Corridor Stage 2 (5 – 10 years), M1, Hexham, Raymond Terrace Upgrades (5 – 10 years).

These projects are in the planning phase for further investigation. Quayside infrastructure for new terminals at Ports would be the responsibility of port operators to fund and deliver.

The NSW Government will continue to prioritise the delivery of projects that maximise the use of the existing network and benefits to both passenger and freight customers. The review of the NSW Freight and Ports Plan by 2023 will provide an opportunity to review project commitments and their relative priority in light of the updated evidence base.

The broader benefits of asset recycling

The 99-year leases of Port Botany and Port Kembla began in 2013 and delivered gross proceeds of \$5.07 billion to the NSW Government. The 98-year lease of the Newcastle Port commenced in 2014 and provided gross proceeds of \$1.75 billion.³⁴ Proceeds from these leases were allocated to a number of immediate priorities including revitalisation projects and debt repayment, with the remaining \$5.8 billion (including stamp duty) deposited in the Restart NSW Fund.

The proceeds from the leases, and other asset recycling initiatives, have enabled the Government to fund infrastructure projects, including public transport and roads, education, health, culture and sport and water security. More than \$16.5 billion of the \$20 billion Rebuilding NSW plan has been committed, with work underway on headline infrastructure projects. An additional \$7.2 billion has been committed in the Restart NSW Fund for other priority infrastructure projects and programs, including Regional Growth: Economic Activation Fund projects.

The Government is significantly investing in regional NSW infrastructure, including NSW Freight Investment programs and including:

- Resources for Regions – constructing and improving infrastructure in mining related communities throughout regional NSW, Newcastle and Wollongong
- Illawarra Infrastructure Fund – funding 12 projects including aged care and health facilities, active mode and road links
- Hunter Infrastructure and Investment Fund – enhancing infrastructure in the Hunter Region, including Newcastle, to support economic growth
- Newcastle light rail - which will provide a frequent and reliable travel option in the city centre as a key part of the Revitalising Newcastle program
- Western NSW Freight Productivity Program – supporting the improvement work on freight corridors in western NSW
- Regional Growth: Economic Activation Fund – targeting investment in economic enabling infrastructure.

The NSW Government is also investing more than \$700 million into the Hunter region's infrastructure from the Restart NSW Fund including these projects:

- \$150.0 million committed and reserved towards building the Newcastle Inner City Bypass missing link between Rankin Park and Jesmond
- More than \$470 million committed and reserved under the Regional Road Freight Corridor program including:
 - \$200 million towards the Pacific Motorway extension to Raymond Terrace
 - \$92 million towards the Singleton Bypass

³⁴ See Media Release, Transport for NSW, 30 April 2014

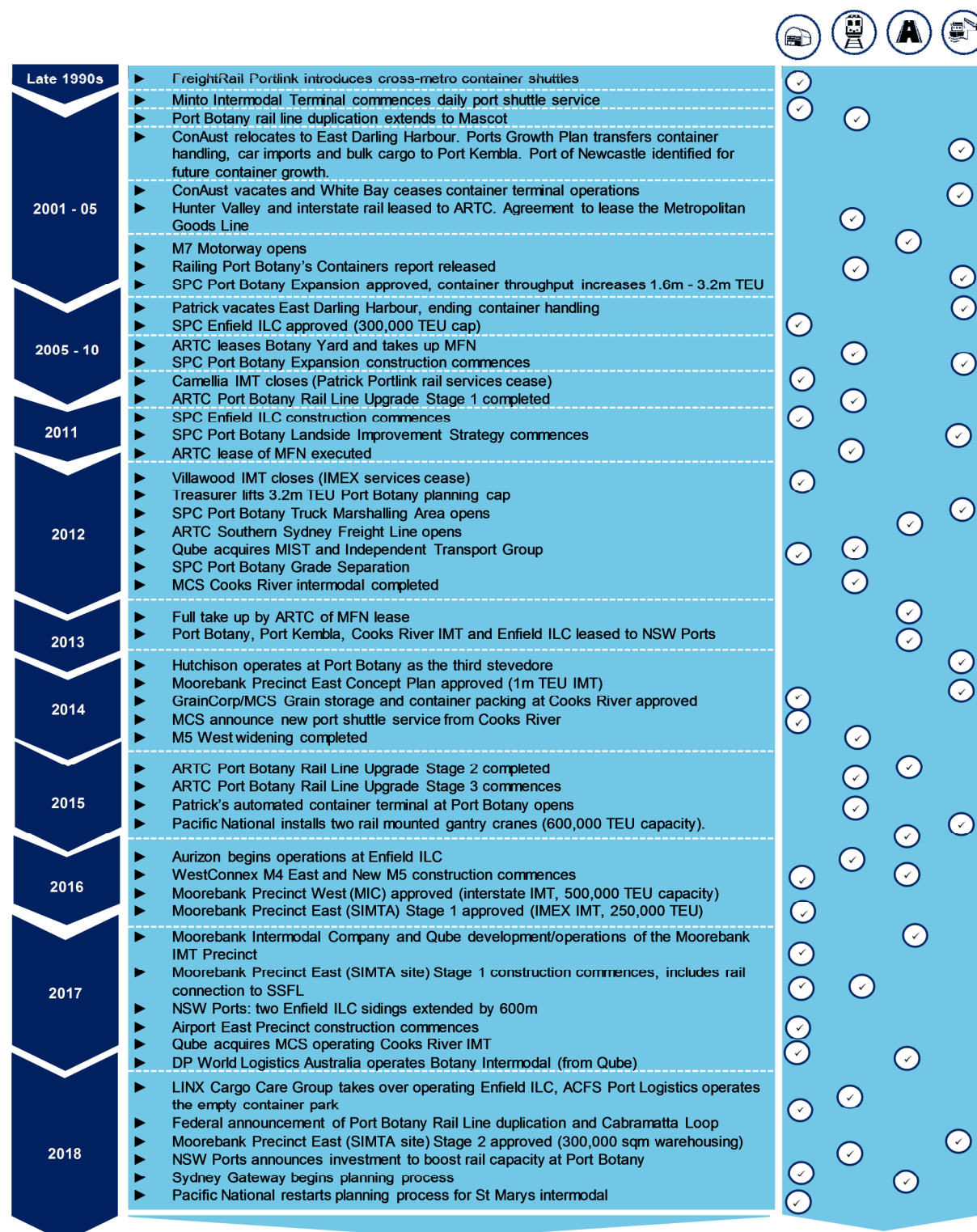
- \$85 million for the New England Highway upgrade between Belford and the Golden Highway
 - \$68 million towards the Muswellbrook Bypass
- \$24.0 million committed to redevelop the Muswellbrook Hospital
- \$18.0 million committed to update the John Hunter Neonatal ICU
- \$17.0 million committed to the Water Security for Regions program including \$11.5 million committed for the Pipeline from Scone to the Murrurundi
- \$10.0 million committed for the Newcastle International Hockey Redevelopment
- \$7.0 million committed for the Singleton Hospital (Imaging, Ambulatory & Primary Health Care Redevelopment).

The Restart NSW Fund (Restart NSW) has been predominately funded from the proceeds of the Government's successful Asset Recycling program. Restart NSW was established to fund and deliver infrastructure projects that improve the State's economic growth and productivity. As at the Half-Yearly Review, total receipts of \$33.2 billion had been deposited into Restart NSW. Significant projects and programs funded from Restart NSW include:

- \$7.0 billion committed towards the Sydney Metro City and Southwest
- \$2.0 billion committed and reserved for the Regional Road Freight Corridor program
- \$1.8 billion committed towards WestConnex
- \$1.2 billion committed and reserved under the Sports Stadia program
- \$1.1 billion committed and reserved towards the Western Harbour Tunnel and F6
- \$1.0 billion committed and reserved for the Regional Growth Roads program
- \$1.0 billion committed towards the More Trains, More Services program
- \$1.0 billion committed towards the Parramatta Light Rail
- \$700.0 million committed and reserved for the Future Focused Schools program
- \$600.0 million reserved for the Hospitals Growth Program
- \$600.0 million committed and reserved for the Cultural and Arts program
- \$542.8 million committed and reserved for the Fixing Country Roads program
- \$400.0 million committed and reserved for the Fixing Country Rail program
- \$400.0 million committed and reserved for the Pinch Points and Clearways program
- \$400.0 million committed and reserved for the Smart Motorways program
- \$300.0 million committed for the Regional Multipurpose Services facilities
- \$300.0 million committed and reserved for the Regional Schools Renewal program
- \$300.0 million committed and reserved for the Environment and Tourism projects
- \$300.0 million committed and reserved for the Bus Priority infrastructure program (including B-Line buses)
- \$300.0 million committed and reserved for the Gateway to the South program
- \$200.0 million committed and reserved for the Traffic Management Upgrades program
- \$335.0 million committed and reserved towards the Bridges for the Bush program

- \$134.4 million committed to redevelopment the Maitland Hospital
- \$100.0 million committed for the Primary and Integrated Care Strategy
- \$84.5 million reserved for the expansion of the Coffs Harbour Hospital
- \$19.8 million reserved for the redevelopment of the Goulburn Hospital.

Appendix 1: Timeline for NSW freight policy and investment



Source: Transport for NSW (2018)

Appendix 2: Terms of Reference

The Terms of Reference for the Inquiry into the impact of Port of Newcastle sale arrangements on public works expenditure in New South Wales are framed as:

- (a) The extent to which limitations on container port operations currently in place following the sale of the Port of Newcastle contribute to increased pressure for transport and freight infrastructure in New South Wales, specifically:
 - (i) the WestConnex Gateway project
 - (ii) the Port Botany Rail Line duplication
 - (iii) intermodal terminals and rail road connections in southwest and western Sydney
 - (iv) other additional public road infrastructure requirements due to the additional road freight movements in Sydney under the existing port strategy.
- (b) The nature and status of the port commitment deeds, the extent to which they contain limitations on container port movements, and the terms and binding nature of any such commitments.
- (c) The extent to which container port limitations contribute to additional costs for NSW industries who are importing or exporting from New South Wales, especially in the Port of Newcastle catchment.
- (d) Any other related matters.

The committee will report by 28 February 2019 on its findings.

