

National Ports Strategy – NSW Government response

Overall comments:

The NSW Government is of the view that the document is well considered, highlights the very real issues facing ports nationally and makes recommendations aimed at addressing these key issues, including,

- planning based on future capacity needs over long term horizons;
- integrating planning at relevant levels to achieve a national consistency while allowing for the particular circumstances at each port; and
- the acknowledgement of the importance of the Port Corporations role in managing and executing agreed plans

A number of comments / queries are raised below which we consider would improve the robustness of the Strategy and provide guidance in the implementation of the Strategy.

It is noted that the timeframes for the implementation of recommendations are relatively short, with all implementation activity due to be completed by the end of 2011 and a number of tasks required to be implemented immediately. As a collective group the amount of work required to complete all recommended actions by the end of 2011 could present a significant time and resource challenge for each level of government, their agencies and the individual port authorities.

We note the role of the independent panel (up to 4 people) to work with the NTC to oversee implementation of the strategy. We recommend that at least one representative have broad container landside supply chain experience.

We note that on page 5 is stated "port infrastructure has useful economic lives of up to 50 years or more (in the case of maritime access shipping channels)...". In NSW Sydney Ports is currently building port infrastructure to 100 year design life standards, specifically for the Port Botany Expansion.

Section1:

General comments on this section:

The draft strategy appears to be based on some fundamental but unquestioned assumptions about the role of ports in Australia, and could benefit from presenting a more comprehensive evidence base.

The strategy establishes the importance of ports to Australia through unsupported assertions. While there is data on the volume of freight moved domestically – there is no data on the value of this freight or the economic impact of port-related freight.

Further, while there is some evidence presented that ports are grappling with growth in the trade task (e.g. managing ship and truck queues) there is no estimate of what impact these constraints have on the economy.

Specific comments on this section:

No specific comments identified.

Comments on Recommendations:

Recommendation 1.9 (at p.28) provides that BITRE and ABARE should publish forecasts of trade including by commodity, activity and corridor usage that are usable for the purposes of planning.

While the approach of utilising consistent, rigorous datasets across jurisdictions for planning purposes is considered appropriate, it is not clear at this stage how the data (including relevant assumptions) would be agreed, tested, reviewed and changed where appropriate. It could be expected, for example, that jurisdictions and port authorities would have information, in particular regarding local circumstances, which could assist with refinement of data. It is considered that these matters should be clarified before any datasets are utilised by jurisdictions in their planning.

Section 2:

General comments on this section:

The proposed vision, objective and priorities of the National Ports Strategy are generally supported.

Specific comments on this section:

No specific comments identified.

Comments on Recommendations:

Section 3:

General comments on this section:

The proposed priority areas and recommendations for action in the National Ports Strategy are broadly supported. However, the draft strategy seeks to prioritise port development over other forms of development, and over environmental protection and management. While it is important to have confidence in the future development of port plans, this does not override the need to balance ports "trade facilitation activities" against environmental, community and alternative development considerations.

The proposal that the Commonwealth Government lead the development and application of a nationally consistent environmental management regime requires further detail on the scope of this management regime, the proposed powers of the Commonwealth and how this would be implemented.

Section: Section 3.5.4 Transparency in Ports

Specific comments on this section:

3.2 Priority area 1: Planning for relevant ports and infrastructure

- *Broadly, this type of strategic level/master planning is supported, as Part 3A proposal review by the agencies, at the development application stage, can be too late to influence decisions. This is critical at the regional level – the integration of the port with the region it serves and synchronisation of the capacity of the port with the capacity of channels that serve them (e.g. road/rail). As stated in this section of the strategy, this could improve the approval process address community concerns with proposed projects before they arise.*

3.3 Priority area 2: Protection of the ability to execute plans

- Aside from "concerns" raised by "some" stakeholders and private participants, there is no data to back up the claims that ports approval processes are "lengthy, uncertain or untimely" or that this decision-making process has prevented adequate development to date.
- The recommendation that decisions regarding "make-or-break" issues about relevant ports and freight corridors should be made well in advance of forecast trade activity does not necessarily imply that there should be a "nationally consistent environmental management regime".
- It is desirable for there to be separation between ports and residential or other sensitive areas, however it is important to note that ports and related freight functions should not have an automatic or assumed right to land or corridors, as such 'encroachment' is an unnecessarily negative word to describe residential and other development.
- Further, while the strategy raises the issue of potential future land use conflicts, there is no consideration of existing land use conflicts, in some cases caused by expanding ports encroaching on existing residential precincts.
- *The strategy recommends a nationally consistent environmental management regime. It makes a passing mention of how environmental requirements may vary from place to place due to different environmental circumstances, but then goes on to say the regime needs to recognise the primary economic functions of ports/international competitiveness / investments etc (page 32). This requires more consideration and elaboration.*
- *Appendix 1 of the strategy lists transport policy objectives. One of these is environmental, namely "Protect our environment and improve health by building and investing transport systems that minimise emissions and consumption of resources and energy". Some principles or environmental performance outcomes could be consistent nationally but the actual requirements/measures could vary from port to port based on site constraints/opportunities – existing built vs new proposed – adjoining land uses – receiving environments etc.*
- *In referring to a "nationally consistent environmental management regime" (section 3.3.2), the draft strategy is referring to a streamlined approvals process rather than an environmentally responsible approach to the management of ports. This environmental management regime needs to consider the environmental legislation and regulations of the jurisdiction and address issues such as land use conflict, noise and air impacts. Improvements in the way these issues are managed will improve certainty in relation to approvals.*
- *Buffer strategies between sensitive receivers and port infrastructure/freight activities are supported and need to be closely linked to Priority 1 - planning for relevant ports and infrastructure, so that land etc can be set aside and preserved. The ability to rely on buffers will vary from site to site. The need to consider best available control technology and best management practices to prevent land use conflict (eg air, noise pollution etc) should also be*

included. It is not mentioned and ties in with the above environmental objective. Established older sites with a history of poor planning will find buffers very difficult to achieve.

3.4 Priority area 3: Improving land side efficiency and reliability

This section focuses on the possibility of incentives to the supply chain but does not identify the pivotal role of the stevedores as the hub of cargo flows. We agree with the focus on technology to improve performance. This section also identifies the value of moving to performance leases to drive improvement.

The recommendations focus on reducing economic costs. The cost to the environment is not considered. It would be good to see the importance of this objective discussed as an issue in the strategy and linked to the recommendations. This could include sustainability issues, use of green fuels, reductions in VKT (greenhouse/NOX etc) etc.

Further, although the vision for the Draft Strategy talks about "efficient sustainable ports," it does not apply the term sustainable in any ESD sense. Section 20E of State Owned Corporations Act (NSW) 1989 adopts ESD as an objective of state owned corporations, such as ports authorities. The priorities for the strategy should also include the planning for both environmentally and economically sustainable ports.

General comments on this section: The details in the recommended actions discuss the future role of ports and this is consistent with current responsibilities of Sydney Ports Corporation on landside improvement through the Port Botany Landside Improvement Strategy.

The Strategy also recommends a review of legislation/ regulation regarding government owned organisations that control by ownership or lease a relevant port including the objects and functions of the organisation, the responsibility of the Board and management and many other elements (refer page 40 action 4.4). It is unclear why there is such a focus on government owned organisations and a limited focus on private port organisations. NSW suggestion would be to suggest similar investigations be made into private port organisations.

Comments on Recommendations:

Priority Area 1: Planning for Relevant Ports and Infrastructure

- The recommended actions 1.1 to 1.7 are generally supported..
- The recommended actions 1.8 to 1.18 are generally supported. NSW agrees with the development of a long term master plan that demonstrates how relevant ports will manage growth is important..
- The recommendations for Priority 1 advocates an outlook horizon of a minimum of 20 years. In NSW our current approval processes at Port Kembla port are for 25 to 30 year projects.

Priority Area 2: Protection of the Ability to Execute Plans

The recommended actions 2.1 to 2.7 are generally supported. Further information is sought on the scope of a nationally consistent environmental management regime for relevant ports to ensure that this is appropriately integrated within the framework of the *NSW Environmental Planning and Assessment Act*.

NSW would expect that a suitable agency be identified to represent the NSW Government under the proposed 'Lead Agency Framework' to assist the planning approvals and environmental impact assessment processes for all relevant ports and freight corridors.

Section 4:

General comments on this section:

Specific comments on this section:

Comments on Recommendations:

Recommendations 4.1 and 4.2 require the application of the principles set out in those recommendations to port authorities, by the end of 2011.

Recommendation 4.4 also recommends a Commonwealth review of legislation/ regulation regarding government owned organisations that control ports, including of their objects and functions, also by the end of 2011.

It appears likely that the proposed Commonwealth review would address matters relevant to the principles contained in recommendations 4.1 and 4.2. It would seem logical to complete the review prior to implementing any new guiding principles.

Section 5:

General comments on this section:

It is suggested that the timing for approving the list of nationally significant ports be included as part of the Strategy.

Ports in NSW already act in a manner consistent with the Draft Strategy. In NSW, the *Ports and Maritime Administration Act 1995* sets out the objectives and functions of Sydney, Newcastle and Port Kembla Port Corporations. The principal objects of each Port Corporation are:

To be a successful business and, to this end:

- o to operate at least as efficiently as any comparable businesses;
- o to maximise the net worth of the State's investment in the Port Corporation;
- o to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates and by endeavouring to accommodate these when able to do so;
- o to promote and facilitate trade through its port facilities; and
- o to ensure that its port safety functions are carried out properly.

At the same time, the Strategy recommends that "a jurisdiction should treat an authority for a relevant port as if it was a privately owned organisation". There could be many implications arising from this; for example there is no need to comply with government tax, procurement, employment, investment requirements; for example Sydney Ports Corporation could lose its minor works planning approval powers. NSW is also concerned about the impact of section 5.1 and consistency with its ports as constituted under the State Owned Corporation act.

Specific comments on this section:

- The Draft Strategy claims that there is a lack of transparency and clarity in assignment of responsibilities from government to port authorities (5.4.4). This is unsupported by evidence and should be revised and clarified with reference to actual examples.

The Draft Strategy states that "there may be no market-based possibility of merger" between government owned industry participants, "even if there were no competition concerns about such a merger" (5.5.2). The strategy does not provide an argument to support this point and it should be clarified.

Section 5.2: The reference to Plan delivery by mid-2010 has been removed from the document. Clarification is required as to the timing required for Plan completion.

Section 5.2.3: Paragraph 3 references the identification of critical transport corridors that should be treated as if they were part of the National Port. Further information is required as to the process and timing for establishing these corridors. Consideration should be given as to whether it would be most appropriate to list these corridors together with the listing of the Nationally Significant Ports.

Section 5.3.3: Further explanation of the 'strategic assessment process' is required. Which agency would be tasked with the role of 'Lead Agency' status referred to in this context?

Section 5.5.3 states that 'any government financial investments in National Ports should be on a commercial basis'. NSW regards this statement as being too restrictive and would not allow the recommendations within the Strategy to be entirely realised. For example, at urban based ports significant financial investment would likely be required for noise mitigation at residences along freight rail lines and surrounding ports to ensure continued unconstrained operations. Government financial assistance to achieve this would be entirely appropriate in the context of the issues and recommendations in the Strategy. However, the statement made in this section could be construed as precluding such financial assistance, which it is presumed is not the intention. A similar argument could be put for new road infrastructure where it is not a 'toll road'. Further, any commercial basis trigger needs to be set at a level that recognises the flow on benefits to the state / nation from the investment and not just the direct return from the investment itself.

Comments on Recommendations:

Section:5.6.4 Competition Regulation

General comments on this section: Potential Trade Practices Act concerns may be avoided by restructuring proposed arrangements e.g. Through creation of independent logistics co-ordination of the supply chain. This addresses concerns some port authorities may have about market power of technology companies.

Section: 7.4.2 Cost Indicators

General comments on this section: NSW agrees that the NPS should focus on common national opportunities for reducing cost of landside movements.
Specific comments on this section: Section 7.6.3 identifies the benefits of improving truck efficiency through dual loading, slot utilisation and truck capacity. NSW strongly supports these initiatives.
Comments on Recommendations:
Section:7.7.3
General comments on this section: The NPS recommends further investigation of ports information community proposals especially between ports. The NPS recommends that the National Transport Commission reporting to the Australian Transport Council would be in a position to achieve this. It is unclear what value these bodies would bring to a ports specific issue.
Specific comments on this section:
Comments on Recommendations: NSW recommends that Ports Australia is in a better position to develop this investigation and provide expertise and leadership on this issue.
Section:8.3.1.
General comments on this section: The trade forecasts for Sydney are not correct. NSW have agreed or approved the forecasts. At this time the trade simulation that NSW agency, Sydney Ports Corporation, is developing has an average growth rate of just under 6% which puts container trade in 2029/30 at 5.8 million.
Specific comments on this section:
Comments on Recommendations: