

CORRECTED VERSION

PORT OF MELBOURNE SELECT COMMITTEE

Inquiry into the proposed lease of the port of Melbourne

Melbourne — 13 October 2015

Members

Mr Gordon Rich-Phillips — Chair

Mr Daniel Mulino — Deputy Chair

Mr Greg Barber

Mr Damian Drum

Mr Craig Ondarchie

Mr James Purcell

Ms Harriet Shing

Ms Gayle Tierney

Staff

Secretary: Mr Keir Delaney

Research officer: Mr Anthony Walsh

Witnesses

Mr Allan Garcia, Chief Executive Officer, and

Mr Luke Murphy-Gregory, Senior Policy Analyst, Infrastructure Strategy Branch
Department of State Growth (*via teleconference*).

The CHAIR — Good morning, Allan.

Mr GARCIA — Good morning.

The CHAIR — Are you there with Luke? Is that correct? Or are you there by yourself?

Mr GARCIA — No, I am here with Luke.

Mr GREGORY — Good morning.

The CHAIR — Good morning. We thank you for making yourself available to us today. I will just formally open the hearing, if you are ready to go.

Mr GARCIA — Sure.

The CHAIR — I declare open this Legislative Council Port of Melbourne Select Committee public hearing. This hearing is in relation to the inquiry into the proposed lease of the port of Melbourne. I ask that all mobile telephones in the gallery be turned off. I welcome Mr Allan Garcia and Mr Luke Gregory from Infrastructure Tasmania and thank them for making themselves available. The committee does not require witnesses to be sworn, but questions must be answered fully, accurately and truthfully. Witnesses found to be giving false or misleading evidence may be in contempt of Parliament and subject to penalty. All evidence taken at this hearing is protected by parliamentary privilege as provided by the Constitution Act 1975 and is further subject to provisions of the Legislative Council standing orders, the Parliamentary Committees Act 2003, the Defamation Act 2005 and where applicable the provisions of reciprocal legislation of other Australian states and territories.

Pursuant to standing order 23.22(6), the committee will take evidence via audiolink. All evidence is being recorded and you will be provided with a proof version of the transcript in the next couple of days. The committee has allocated 45 minutes for this hearing, and I invite you to make a brief opening statement if you wish, and the committee will then proceed to questions. Because we are working over an audiolink, could you just say your name before you speak so that Hansard is able to record accurately for the transcript.

Mr GARCIA — Thank you. I am very happy to comply with all of those requirements. Allan Garcia. As our opening statement I suppose I would just like to say that the key factor for Tasmania is the continued efficiency of Tasmanian freight to be maintained. From the perspective of Tasmania, 98 per cent of the state's inbound and outbound container freight goes via the port of Melbourne, and almost 25 per cent of volume handled by the port of Melbourne relates to Tasmanian trade. The future operations of the port of Melbourne have serious impacts on the supply chain not only in Tasmania but across the country, and it will impact on the vast majority of Tasmanian businesses.

We have been focused on ensuring that the privatisation of the port would not result in unreasonable cost increases for Tasmania. We have been pleased with the commitments around medium-term pricing by the Victorian government, along with agreements reached with parties on commercially acceptable long-term arrangements on port rents. We are very pleased with the concessions from the government to date in recent times, with the proposed expansion of regulatory oversight relating to port rents, and we see that as a positive development.

From the contractual aspect, requiring a market standard rent review with independent dispute resolution, we see as being a very positive step forward, and from the legislative aspect, extending the essential services commissioner's power to conduct periodic reviews on misuse of market power is also welcome. While it probably does not go to the full price regulation that we were looking at in our submission, it provides a level of comfort and is in line with our suggestion for an oversight mechanism for rents.

We do have a continuing concern that there is no certainty around the long-term surety for Tasmanian shippers and also a concern that there is no long-term protection for Tasmanian shipping operators in the post-privatisation regime. We are worried as our total reliance, almost, is on the port of Melbourne, and while there may be some surety in an upcoming lease arrangement with current shipping providers or shipping operators from Tasmania, our concern is beyond that period of the lease as to what continuing certainty there is for Tasmania to continue to ship through the port of Melbourne.

Having said that, I think that probably summarises our position at the moment, and we are happy for the committee to fire questions at us.

The CHAIR — Allan, thank you very much. Luke, do you wish to add anything by way of opening comment?

Mr GREGORY — No, thank you.

The CHAIR — Thank you. Going to your written submission, and we thank you for that written submission, the submission indicates that over the last six months the Tasmanian government has been involved in high-level discussions with Victoria, seeking certain assurances in respect to access to the port for Tasmanian operators. Are you able to outline what assurances you have sought and what assurances you have received from the Victorian government?

Mr GARCIA — I expect it is fair to say that the issues around pricing in regard to rent has been our critical representation, and certainly the announcement by the Victorian government in relation to both the contractual and the legislative mechanisms that will allow a level of oversight and surety around that and a degree of independent oversight — that concession is certainly something that has been welcomed and something that has been progressed with the Victorian government.

In relation to the broader issue of longevity and certainty around continuing access to the port of Melbourne by shippers, that certainly has been on our agenda. We have not actually, I do not believe, received a guarantee or a specific assurance on that matter, but that is one matter that we continue to progress or continue to seek assurance on from the Victorian government.

The CHAIR — Can I ask with respect to that certainty for Tasmanian shippers, how does the Tasmanian government see that operating or what form would that type of certainty take?

Mr GARCIA — It is a very difficult circumstance when you are actually seeking to privatise a port and then lock that entity into some form of guarantee of a particular provider or particular user of your port. In essence that is what we would be seeking. We would be seeking some assurance that there would be some favourable consideration to Tasmanian shippers beyond the term of their current lease. We do acknowledge that it is difficult to put pre-privatisation on the table. I suppose it puts almost a risk or a potential shortcoming or something that could be seen as an encumbrance by a new owner that they have got to actually respond to that longevity of lease for Tasmania. But certainly whatever form that takes or whatever mechanism might be available, that certainly would be some sort of assurance that we would be looking at — that Tasmania would have continued access to the port of Melbourne.

The CHAIR — Allan, just to clarify, there are three Tasmanian shippers operating from the port of Melbourne currently?

Mr GARCIA — That is correct. We have the TT-Line, we have Toll and we have SeaRoad.

The CHAIR — And they are all on relatively short-term leases? Their leases expire in the next five years?

Mr GARCIA — Toll and SeaRoad do. They expire in 2017. I think negotiations presently are going quite well. The proposition is for a relatively short-term lease, I think in the order of 20 years. Even if those were successful and we achieve the 20-year horizon, our concern remains that 20 years in the scheme of things is not very long, and we would be looking for something a bit longer than that. With regard to TT-Line, they operate from Station Pier and that is not subject to privatisation.

The CHAIR — In the view of the Tasmanian government is there any viable alternative to the port of Melbourne, either shipping via Adelaide or Sydney or Brisbane?

Mr GARCIA — At the present time much of the Tasmanian future and current economy is around perishable and sensitive freight. The circumstance we have is that the preferred mode of transport is something that can go overnight, where you can literally pick and pack today and have it in the market either in Melbourne or on a connecting export flight out of Melbourne. For instance, on our TT-Line, which is probably the fastest mode and the preferred mode for perishable and fresh, we have anything up to 85 per cent of that vessel filled

with perishable and sensitive freight. To send it through Adelaide does not give us the connections to market in the supply chain that producers have developed, nor does it give us the connections to the likes of the international flights to Asia that we would need.

A Sydney run, in the context of non-sensitive time freight and time-sensitive freight, is an option. Certainly we have a new service that will be operating out of Hobart in the near future that will run a one-day-in nine operation into Sydney and to Brisbane. But the majority of our freight at the present time crossing Bass Strait is very time sensitive. Certainly we have bulk materials, such as minerals and the like, that are not so time sensitive. The predominance of the Toll supply — a significant part of it — is not as time sensitive, but certainly TT-Line and a significant load on SeaRoad is around agricultural produce, aquaculture and the like. The reliance on and the way in which the supply chains have been developed over a period of years means it is very important that we have those connections to Melbourne. The short-term contracts that we have and the likes of the Woolworths and the Coles and the slot arrangements we have to fit in with, mean it is very important that we have that continued access.

The CHAIR — Allan, just finally can I ask you, with respect to the government's announcement around the Essential Services Commission undertaking periodical reviews on operations, do you have an understanding of how that is going to work? You referred to taking some comfort from the subsequent announcement by the government two weeks ago. Have you got an understanding yet as to how that is intended to operate? Has the Victorian government provided a briefing to the Tasmanian government in that regard?

Mr GARCIA — No, not as such, and we certainly are looking forward to seeing the detail of that. We are pleased with the headline announcement, but in regard to what it consists of, how it will physically operate and how frequently that review would take place, we certainly have not got detail yet but are hopeful that it will be along the lines that we are contemplating as being favourable, I suppose, to the whole process. But certainly we have not had that briefing direct from the Victorian government to date.

The CHAIR — Thank you, I will hand over to the Deputy Chair, Mr Mulino.

Mr MULINO — Allan, thanks for your evidence by the way and for your opening statement. You have indicated that you would be looking for some additional detail in relation to those periodic reviews. I was just wondering in a more general sense if you could make a comment in relation to the engagement with the Victorian government to date around issues like pricing, regulation and access. Have you had constructive, ongoing engagement?

Mr GARCIA — Look, I believe so, and can I say that the majority of those interactions has been Premier to Premier, Treasurer to Treasurer, and infrastructure minister to infrastructure minister. I think on the several and many times that there has been the opportunity for discussions each of, I suppose, our ministers has had fruitful and ongoing discussions with their counterparts in Victoria. I think it is clearly understood the circumstances — I will say the unique circumstances — surrounding Tasmania in regard to the port of Melbourne.

I believe that the sorts of concessions that have been given around pricing oversight, if you will, are as a direct result of some of those representations that have been made. Certainly the issue of longer term surety and certainty for Tasmania has been high on the agenda with both the Treasurer and the Premier, and as I understand those conversations have been fruitful as they have progressed.

Mr MULINO — Thank you, and in relation to that ongoing guarantee, obviously there are a number of forms that could take, so discussions are continuing on that issue?

Mr GARCIA — Yes, they are, and what we do appreciate is that there is a select committee looking at this, there is a government which is considering its own position, and we are not absolutely sure where that will land or the form it will take. We have certainly made the case that while 20 years may be very valuable on renewing current leases, we in this state are building a platform of economic growth that is highly dependent on a speedy service and a direct service into Melbourne. If that is in any way compromised, it just places the economy here and the growth mechanisms that we have put in place highly at risk. So getting that surety is not just about securing a direct pathway, it is about ensuring that the investment plans of Toll and SeaRoad — and I suppose any other operator that might come into play in this bid — can be made with some confidence.

Mr MULINO — Just finally, a couple of questions around supply chain costs. Obviously Tasmanian exporters are exporting into highly competitive markets, and also many of the exports out of Tasmania are often very time sensitive and rely upon very reliable supply chains. A lot of the issues that we have talked about, such as economic regulation and the best way to increase capacity for container traffic, relate to the ways to achieve those policy outcomes in a way that puts downward pressure on supply chain costs. I imagine that is a concern for Tasmanian exporters.

Mr GARCIA — Absolutely. Bass Strait is probably the most expensive piece of water in the world. Our exporters will often say to us that the cost of them getting product from Tasmania to Melbourne, and then Melbourne to whether it is Europe or Asia, the latter cost is often cheaper than the cost of getting it across Bass Strait. So upward pressure on Bass Strait in any form, whether it is at this end, the other end or in the middle, is certainly very sensitive for exporters. Certainly on departure from Melbourne, whether it is by ship or whether it is by aircraft, it is a known. The pricing structure is much lower per unit, but it is very sensitive to price across Bass Strait.

Mr MULINO — So the key issues that are going to be examined over the coming years is, firstly, ways to best increase capacity at the port of Melbourne and, secondly, eventually where a second port should be established. I think everybody agrees that at some point there will have to be a second port. You would certainly favour a decision-making framework in which putting downward pressure on supply chain costs is a key element in that.

Mr GARCIA — Absolutely. As I say, we understand that a second port was going to be necessary. I suppose our issue is: if the consideration around the port of Melbourne is maximising that port as an international port, we just want to make sure that in that context we are on a similar footing to that with regard to our particular circumstance. To make it a totally international port and exclude Tasmania from that process, I think that is where our circumstances lie. We are very concerned about the fact that, if it becomes a fully international port and then there is a differing domestic port in another place, that it may not meet our needs. I think we just want to be considered in that space.

Mr MULINO — My last question is do you support Infrastructure Victoria examining the issue of where a second container port should be located?

Mr GARCIA — I think ultimately that has to happen. There is no doubt that on the evidence that has been presented to date that the port of Melbourne cannot meet all the future needs of Victoria into the future, so on the arguments as to whether the port should be to the east or the port should be to the west, clearly there needs to be an evidence-based decision around that. There is the way in which the services are structured now — all those supply chain issues and access to and from ports, all of that needs to be considered. We would be fools to suggest that ‘No, we do not want Infrastructure Victoria to look at that’. Of course they should. In whatever form and shape that we could be of assistance in any inquiry or investigation by Infrastructure Victoria, we would be willing to participate.

Mr MULINO — Thank you.

Mr PURCELL — Good morning gentlemen. In your submission you say that 25 per cent of the volume is handled by the port of Melbourne. Is that mainly container traffic?

Mr GARCIA — No. Not mainly. I am not sure of the exact split — I do not have it at hand — but certainly a lot of our time-sensitive freight goes via trailer. So, on the TT-Line, by volume bulk freight is about 62 per cent and non-bulk or sea freight is 38 per cent. So 38 per cent is probably non-containerised, so a lot of our time-sensitive freight, a lot of our perishables, are put on trailers. The reason for that is that we trailer out, and in terms of asset utilisation, being able to get product out of the south of the state on to something like a TT-Line or a Toll — which does take trailers — allows for a very direct and quick service from the port into whether it be slots at Woolworths or Coles, or to the airports to make the changeover, and on the other side being able to quickly move around, whether it is Melbourne city or from a distribution centre, to bring product back into the state in the form of whether it is foods or perishables or the like. So at the present time there is a significant reliance on that trail of stock. In terms of the future re-tonnaging of SeaRoad and Toll, SeaRoad next year will bring online a new vessel which will have significantly increased trailer capacity, and plans by Toll for re-tonnaging in 2018 Toll of both its ships will see, again, a significant increase in trailer capacity.

Mr PURCELL — Thank you. It may be a position you do not have, but through the submission, it sort of infers that you think the best option is for the port to stay in public hands, even though it does not say it. You probably have not got a formal position on it, I would imagine. Is that the case — that you do not have a formal position in regard to whether it should stay in public or private hands?

Mr GARCIA — I am not sure that is our call to make, and in light of the decision being taken by the government, I suppose from a sovereign perspective we would say that is a decision for the Victorian government. But in the context of how that translates, I suppose what we would indicate is — I do not want to call them ‘protectionisms’ but certain assurances around ongoing access and reasonable pricing regimes. I think with the issues around oversight and non-monopoly activities, we are comfortable that while there is a notional public sector monopoly at the moment, we are not fussed about moving to the private sector as long as there are safeguards there in terms of pricing and in terms of issues about longevity and long-term surety.

Mr PURCELL — Thank you. I appreciate that.

Mr ONDARCHIE — Allan, Luke, it is Craig Ondarchie speaking. In your submission you talk about Tasmania having very little countervailing market power, and in fact a 70-year monopoly — —

Mr MULINO — Fifty-year lease.

Mr ONDARCHIE — A 50 plus 20-year monopoly could in fact back you guys into a corner, could it not? What certainty do you have around the safeguards you talked about around monopoly pricing?

Mr GARCIA — I suppose what we do have is this recent announcement by the Victorian government that there will be some safeguards in place. Again, without knowing the detail of what that represents, we have a degree of comfort and confidence that by having a contractual arrangement where there is capacity for referral to an independent arbitrator and, through the legislation, having some oversight of all those monopoly rents — there is a degree of comfort there. In reality that is probably as good as we can get in terms of having a private sector arrangement whereby rents can be monitored from time to time. It could be argued that if we had a despicable government that had a port in public sector hands — —

Mr ONDARCHIE — We do.

Mr MULINO — We used to.

Mr GARCIA — I am not going there. That obviously depends on which team you are in over there. We could have that circumstance now if a Victorian government chose to, under the guise of ownership, do exactly what it is doing now but rather than selling the port increase rents all over the place. We acknowledge the fact that it is our only choice, and we have to cop whatever the price is over there, but we are comforted by the assurances via the government’s announcement that there will be levels, I suppose, of comfort and surety and capacity to make representations when necessary if it is believed that the market is not operating fairly.

Mr ONDARCHIE — Given that 85 per cent of the stuff that lands in Melbourne from you is perishable freight, would you not be happier with regulated rents rather than some sort of periodical review?

Mr GARCIA — I think where we were going with our submission was regulated rents, but we also acknowledge that in a commercial world maybe that is not achievable. I suppose the government’s halfway house in its latest announcement has given us a degree of comfort. We like regulated rents — yes please, we will take that. If that were possible, fine. But as I say, as a stepping stone we certainly have a higher degree of comfort with the government’s recent announcement around pricing than we had before.

Mr ONDARCHIE — Hang on a few days. There could be more; who knows?

Ms SHING — Thanks, Mr Garcia, for your evidence today and for the submission which you have earlier provided to the committee for its consideration. I would like to pick up on a couple of things following Mr Ondarchie’s line of questioning to you in relation to rent regulation and the economic regulatory framework. I note that you have indicated a very positive response to the announcements around greater oversight and the safeguards being built in to that. How do you think that that compares to the way in which administration and operation is regulated more broadly around Australia?

Mr GARCIA — I would first say that it is tempered support of the Victorian government's announcement. As I said, we have not seen the detail yet, and I suppose in answer to your question, until such time as we do see that detail, we would be, I suppose, reluctant to sort of jump up and down and hip hip hooray. Once we see the detail, we would be more in a position to respond to the sort of question you are asking.

Ms SHING — Okay. I just note that you issued a media release or the Minister for Infrastructure issued a media release on 1 October, indicating that:

The Hodgman government welcomes the Victorian government's announcement that further safeguards will be implemented in the port of Melbourne lease process to protect Tasmanian exporters from unreasonable fee hikes —

taking account of the rent issue that I raised —

and this announcement is another big win for Tasmanian exporters.

It then goes on to say:

If leased, the port of Melbourne would be subject to more stringent oversight than any other port in the country.

I suppose it is that comparison that I am interested in hearing your views on.

Mr GARCIA — If my minister says that is a marvellous thing, then that is a marvellous thing.

Ms SHING — But in terms of the comparative analysis of what it will mean for infrastructure and for the transactions that will involve bringing fresh goods to market in an increasingly time-sensitive arrangement where you do have transport options and requirements to get goods, for example, to Europe, as you indicated earlier, how will this transaction and the safeguards that have been announced earlier this month provide you with that greater certainty in relation to that proportion of the goods that are transported?

Mr GARCIA — As I said, I suppose we have to accept what we have to accept. At the end of the day the proof will be in the tasting on this type of thing. I am not aware of what arrangements exist in other ports. We have not had to deal with those and we certainly have not done any analysis or comparisons around other privatised ports. As I say, each incremental degree of surety we get in this process provides comfort to our producers. It provides comfort for those supply chains.

We do not have the luxury of trucking or training product, and we certainly have circumstances, particularly with the big two supermarkets, where if we cannot effectively get our product to market, whether it is on the basis of a reasonable cost or a reasonable time frame, there are plenty of other choices in the country. We cannot fly it; it is too expensive unless it is a very high-value product. In regard to that shipping capability, we are so dependent. We are not in a position to dictate terms. We are very much price-takers in this space.

We continue to bang the drum about how we are a bit different. Like the people always say, Tasmania is different. In this case we are, and we have this sole dependency on Victoria. We acknowledge a lot of this is about a goodwill relationship. It is about understanding the fact that Tasmania is a valuable contributor to the Victorian economy, through the port of Melbourne and through the product supply chain. We cannot bank on friendship, but certainly we are in this case. We would like to see ourselves as partners. We take what we have to take in regard to pricing. As I say, if we can get incremental betterment on a deal that initially looked like we were going to be subjected to significant price hikes and no capacity to oversight rents, then any step forward is an improvement for us.

Ms SHING — Great. Thank you very much, gentlemen.

Mr DRUM — Allan, thanks for your presentation. Can you just give me a little bit of background on the balance of your imports versus your exports. In Tasmania how does that actually stack up in relation to commodities in versus exports out?

Mr GARCIA — We are about at 50-50. For things like major food products, anything you want to put in a house, be it furniture and the like, all those types of products, we do not have production. While we have boutique production in Tasmania, we certainly do not have all the things that we need here, so it is about a 50-50 split. The boats that go out that are full generally come back full with something else.

Mr DRUM — Where is the main container port? Does it come out of Devonport or come out of Hobart, or a bit of both?

Mr GARCIA — The main container port is Burnie — significantly the main container port — followed by Devonport. The split-up of the freight is: Toll takes about 54 per cent, which is out of Burnie; SeaRoad take about 22 per cent — they are out of Devonport — and the rest of it is TT-Line. There is a bit of container activity out at Bell Bay and soon there will be a little bit out of Hobart, but Hobart has predominantly been, from a container perspective, a dormant port for about the last five or six years.

Mr DRUM — Have you any comment on the fact that the port licence fee is going to be charged upfront? Not just the lease of the port but also the port licence fee is going to be possibly bundled up and paid for in a once-off payment as well.

Mr GARCIA — I probably do not understand the implications of that, so I probably would not like to venture a comment in the sense that it is not something we have really considered.

Mr DRUM — I think at the moment it is about an \$80 million per annum fee. That can either be paid \$80 million a year or it can be bundled up and maybe another billion or a billion and a half can be thrown onto the purchase price of the lease. That is what seems to be on offer at the moment. Anyway that is just for you to look into as you check out what is going on. That is fine. Thank you.

Ms TIERNEY — Thank you, Allan and Luke, for your submission and your contribution this morning. Most of my issues have actually been covered off with questions that have been posed by other members of the committee, but I was just wondering whether you could give us just a general sense of what your views might be in terms of the pricing order?

Mr GARCIA — I might pass over to Luke at this stage and let him have a go at this one.

Mr GREGORY — Hi there. We have looked at a higher level at the pricing order and note the structure of it. It gives us a good sense of how that will look in operation, but note that there are a couple of key figures in there that need to be included at a later date. We will be keen to see the detail flow through in that pricing order and how that turns out in terms of pricing.

The CHAIR — Mr Garcia, Mr Gregory, thank you very much for your evidence this morning. The committee very much appreciates you making yourselves available on the line from Tasmania, and of course also appreciates your written submission on behalf of the Tasmanian government. Is there any further comment you wish to make?

Mr GARCIA — No. Thank you very much for allowing us to appear, and apologies for the technology and the way in fact in which we had to get there in the end.

The CHAIR — It has worked well this morning, and we will have from Hansard a draft version of the transcript to you in the next couple of days for any corrections you wish to make. Thank you very much for your time. It is very much appreciated.

Mr GARCIA — Thank you.

Witnesses withdrew.