

# CORRECTED VERSION

## PORT OF MELBOURNE SELECT COMMITTEE

### Inquiry into the proposed lease of the port of Melbourne

Melbourne — 30 September 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

#### Witness

Mr Tim Piper, Victorian Director, Australian Industry Group.

**The CHAIR** — The committee will resume with Mr Tim Piper, the Victorian director of the Australian Industry Group.

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 further subject to the provisions of the Legislative Council standing orders. Therefore the information you give today is protected by law; however, any comments made outside the hearing may not be so protected. 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 session. We have obviously received the AIG's written submission. I would invite you to make a brief opening statement of about 5 minutes if you wish, and the committee will then proceed to questions.

**Mr PIPER** — Thanks, Chairman, and thank you very much for hearing me today. Certainly this inquiry, we find, is a very positive and welcome addition to what has been happening.

Ai Group, as many of you know, is the largest association of its type in the country. We have many manufacturers that are members of our organisation — in fact about 60 per cent of our members are manufacturers — and that is obviously one of the reasons why we are so interested in what happens within the port of Melbourne. Whilst about 80 per cent of our members are small to medium members, the other 20 per cent are large members. Again, both the larger and the smaller manufacturers and members are very concerned about what is happening to the port of Melbourne.

We welcome the introduction of legislation for the long-term lease of the port of Melbourne. It makes clear sense to have these assets managed by the private sector and for the capital the state has tied up in these assets to be released for other purposes. However, there remains a number of questions that we have regarding the terms of the lease. As a general principle of good public policy design, we support the sale or lease of some state-owned assets, including the port of Melbourne, and we have encouraged asset recycling. Certainly the federal government incentives that have been created make it even more useful for us to be pursuing that avenue. That said, our group and its members have a number of outstanding questions about the detail of the lease, and a number that we believe remain unanswered.

The fact that the committee has heard from so many exporting businesses also shows the concern that businesses have with the lease and the lack of certainty that is within it at the moment. Companies usually prefer to deal only with their commercial operations and leave matters such as this to others. However, they have clearly stated to you that these are matters of significant interest to them, primarily because their commercial interests could also be affected. For this reason we welcome the inquiry and today's opportunity to appear before you.

Whatever the results of this inquiry, though, we believe it has already been a success. Where there is a decision of such importance and value to the Victorian economy and community, it is advisable to allow significant questioning on the basis of the legislation or the contracts. A review such as this enables outside organisations to consider the ramifications of the legislation and to ask questions of government. It ensures there is a greater community buy-in and consideration of the overall impact on the economy.

We know that government has made some important changes already to its initial proposal. Its submission made to this inquiry reflected improvements and changes that the government itself reflected as being beneficial. Comments made by third parties such as Ai Group and others have encouraged the government to make these changes. Also, very importantly, the ACCC's involvement has brought about strengthened safeguards and resolved a number of concerns. These have included changes made only today by the government regarding periodical reviews by the ESC and the public release of capacity levels and trigger points in relation to the port growth regime. These are important changes that we believe have been orchestrated by this review.

It may be worth the Parliament considering that where major infrastructure changes are being contemplated, inquiries such as this would be welcomed by the community. If I could just point to two in an apolitical way, the east-west link and indeed the desalination plant, for both it would have been worthwhile having a further

inquiry about the value for the community of them, and perhaps we might have got different results from that inquiry.

At this stage in the process for drafting and finalising a lease for the port of Melbourne, our questions to the Victorian government are as follows. How will the government or regulator respond to attempts to implement unreasonable price rises before or after the commencement of the lease? The ESC will be involved because the port is an essential monopoly facility, but how can customers be assured they will not have to fight off further attempts at price rises such as where we saw them already proposed during the lead-up to this legislation? There needs to be certainty in port pricing and how it is regulated. Regulation of pricing needs to be undertaken by the ESC to ensure there is a consistent, across-the-board approach. We do not want the opportunity for price gouging in an area of ports simply because it might not be regulated.

The CPI caps and pricing regulation remain important so far as we are concerned. Currently the port charges are proposed to be monitored by the ESC, but what if new charges might be introduced that are not contemplated right now? This is a long-term lease, and what might be happening in 20, 30 or 40 years time is difficult for anybody to consider at the moment. What will the life span of any pricing cap be? Fifteen years? What happens beyond that? That is a consideration.

We were disappointed by the somewhat glib comments made in the government's submission regarding the costs of the port of Melbourne being only a small part of the overall supply chain costs. So are payroll taxes and other individual costs, but together they amount to significant impositions. For example, the cost of the changes which I have mentioned before that were previously contemplated and recently announced would have cost one of our larger exporters an additional \$3 million in export costs. As a percentage that was a small amount, but in isolation it would have had a significant impact on their profit line.

We welcome the comment by the government as to how the economic regulatory framework will be strengthened and the future setting of prices. This particularly applies to the more clearly established pricing principles that have been mentioned in 7.2.2 of their submission. I understand there will now be restrictions on vertical integration by a monopoly port regulator. That is also welcomed.

What assurances are there that the port operator will be subject to all normal planning processes and consultation requirements? It is an important factor that we need to take into account, because we see more and more the need to be ensuring that the community and the business community are involved in many of these very broad decisions that are being made.

And of course there are many issues that we have already heard about around compensation for an additional second port. We do not know the compensation that is being contemplated and how it will be calculated and on what basis; however, it seems that the ACCC has ensured there will be greater transparency of the trigger points. The details of the compensation still remain unclear, though. The principles for compensation provided in the government's paper are very important; adhering to them will, however, be more difficult. The government has stated that these payments will not meet 100 per cent of revenue lost by the leaseholder, but to what extent will it be provided? Is it 98, is it 90, is it 50? Again, that comment itself leaves many questions unanswered.

We need to be certain that a compensation clause does not in fact cause more problems further down the track than it solves now. For example, the compensation only applies where there is a state-sponsored facility, but it is hard to imagine a second port which is not sponsored by the state, as that is the only way that a second port really can be contemplated. Is the compensation appropriate, or will it create unnecessary complications? The agreed or definite capacity of the port also becomes a factor in determining compensation. Based on the government's press release today, it seems we will be informed as to the trigger point of the compensation, but how do you encourage the port of Melbourne to reach capacity? It seems to me there is an active disincentive to actually reach that capacity, and if they do reach that level, is that when the second port can be introduced?

If the second port has an impact on that capacity, are we then required to pay compensation? There seems every reason for the port of Melbourne to show that it has been adversely impacted if there will be compensation. Will the leaseholder's interest be to reach that capacity? When is it decided a second port is required because of capacity constraints? How long will compensation be required to be paid? Will it be for the remainder of the

lease? That could be decades. We know that some knowledgeable people are telling us that the capacity could be reached in 20 years, but it could be 40 years, so how long will that compensation be required to be paid?

And what happens once we have a second port that is seriously competitive? Will ships sail to Melbourne, or will they only sail as far as Western Port or Geelong? I know the government's submission suggests that landside disadvantages will remain a disincentive in regard to those new ports, but that may not be the case for the new port users. A new state-of-the-art facility further from the city could have major advantages that would impact on the port of Melbourne and its competitiveness, again rendering compensation payable. Can the two ports really complement each other, or will they be competing?

Will the lease agreement need to be renegotiated, and by whom? The current proposal sets out a lease tenure of 50 years with an option to extend to 70. When will those renegotiations commence, and who will make it? That is certainly an issue. Would the decision be one that is made by Parliament? That is who we would prefer a further decision being made by and not necessarily just by the executive. Any extension, again, must be transparent and in the interests of the state. The very important factor here is that the longer the agreement, the more factors that need to be taken into account in binding a government. There will be many factors arising over the next half a century that we cannot contemplate now, so any extensions of the lease should therefore be something for the Parliament to consider, not just the executive. Chair, that is the beginning point from our perspective.

**The CHAIR** — Thank you, Mr Piper. The committee appreciates your additional statement at the commencement of the hearing. Can I ask you at the outset, given the press release issued by the Treasurer earlier today, is it your view that the written statement the Ai Group submitted earlier in September stands as is, or do you see any revisions in light of the announcement today?

**Mr PIPER** — I guess in light of that, Chair, there would be a number of changes that we would obviously make. Certainly a few of the queries in there have already been dealt with by the government. I must say that we have had access to Treasury officials and to the government, and we have been given some support in some of the areas that we did express our concerns, so parts of those have been dealt with.

**The CHAIR** — Thank you. I take you to one of the issues you raised in your opening statement. You referred to the issue of vertical integration and changes that had been made with respect to vertical integration. Could you just elaborate on what you were referring to? I say this from the perspective that this is a moving feast for the committee as well. We are not aware of anything in today's announcement with respect to vertical integration, but can you just clarify what you were referring to?

**Mr PIPER** — Primarily around whether any port owner or leaseholder would be able to become a stevedore in its own right, and therefore impact on the other stevedores. We understand that will not be the case, that they will not be able to become a stevedore in their own right, which I think is a positive development, so you will not have the leaseholder, or literally the owner, controlling a stevedore business itself.

**The CHAIR** — Just to clarify that, Mr Piper, that was not my understanding of the arrangements. It was that an existing stevedore could not bid to become the port operator —

**Mr PIPER** — Yes.

**The CHAIR** — but there was no constraint on the port operator becoming a stevedore.

**Mr PIPER** — That was my understanding, Chair. If that is not the case, I will stand to be corrected, but I believe that that meant they could not become a stevedore themselves.

**The CHAIR** — Okay. If you have any additional information that you could provide to the committee on that, that would be appreciated, because other evidence the committee has heard certainly reflected the constraint on an existing stevedore becoming the operator but not on the other scenario.

You raised the issue of additional charges at the port which are not charges currently or which would not be subject to ESC oversight under the proposed model. Obviously over a 50-year time frame the scope for new charges to be introduced — charges which have not been envisaged — will be very substantial. If we reflect back 50 years, the previous historic pricing regimes for infrastructure were very different to the type of pricing

regime we have with infrastructure now. Does the Ai Group have a view as to whether the regulation and oversight provisions which are proposed to be given to ESC should be expanded to cover all potential future charges associated with the port so it becomes a catch-all and it is not simply a case of, 'We have regulated these, so we will create some new ones over here which are not regulated'?

**Mr PIPER** — We believe the ESC has a very important role to play here, especially if there was only going to be a 15-year cap on the CPI, but even beyond that. That is only one area. There could well be other levies that are introduced that might well be unfair, that could be imposed in an irregular way or how we might see as irregular now. We see government charges and private sector charges that are imposed these days that would not even have been contemplated 20 or 30 years ago, so the likelihood of that occurring over a period of time seems to me to be very high, particularly when a private enterprise is going to want to continue to improve its profit margin and its profit levels. The ESC could play an important role to make sure that those increases and changes were reasonable under the circumstances.

I guess if you look at the way the ESC deals with utilities in Victoria as a good example of how the utilities have to justify the position that they are taking, the reasons for cost increases, the reasons even for their development in capital infrastructure, and not always do they succeed in getting what they want. I believe the ESC should be given the opportunity and the role — an important role — in ensuring that there are no unreasonable price increases across the board.

**The CHAIR** — So you would see its role being more than the proposed role, which is limited to a basket of charges. You would see it having scope to consider new charges which currently have not been envisaged. For example, if the port operator wanted to introduce time-of-use pricing, a surcharge for day deliveries — something that is not currently done — you would want it to have that capacity to also encompass those new charges.

**Mr PIPER** — Something along those lines. If they want to put parking meters along there or something like that that we are not envisaging at the moment, those sorts of things they might just introduce. I am being frivolous, but of course there could be other ways that new levies will be introduced that need to be taken into account, because otherwise that could be imposed without questioning of what they are doing. I do not even think that is the government's intention. I do not think the government would want those sort of increases to be imposed without a recognition that they are reasonable.

**The CHAIR** — The committee has received evidence from the Essential Services Commission. Dr Ben-David, the commissioner, indicated that currently with the regulation of port services the ESC looks at the matters that it regulates to understand if market power is being exercised and it does not look at matters that it does not regulate, which is possibly a not unreasonable scenario but it means that its perspective is narrow. You could have massive market power over here but because that is not the area subject to regulation, the ESC does not have a view on it and does not have perspective on what is happening there. The potential to expand the base of charging beyond the current regulated services would suggest that ESC having that scope to look at the full spectrum of charges, current and potential, would be valuable.

**Mr PIPER** — We are not a great one for additional or unnecessary regulation, but we are dealing with a monopoly here, and under those circumstances you want to safeguard companies that literally have to use the port. Therefore you need a regulator or regulatory body that can look into whatever changes have been contemplated. I think the ESC's role could be important in ensuring that occurs.

**Mr MULINO** — To go back to pricing and to pick up on a couple of points, my understanding is that the current regime does mean that the ESC can capture extra charges. This is obviously a point that we should clarify in terms of the scope of the current bill, but obviously you would support an arrangement where things automatically fall into the ESC if there are new charges, such that they could not exercise undue power. We can clarify whether that is the current operation.

**Mr PIPER** — When I have had issues to do with utilities, it seems to me that the ESC has a very broad mandate in dealing with utilities, so I would have expected that something similar would occur where, again, you have a monopoly, because the utilities are monopolies. This is not a dissimilar situation.

**Mr MULINO** — Touching on that utilities regulation, so the proposed approach for the prescribed services is, as we have discussed earlier with the ACCC, the building block method, some kind of price path. You are

comfortable with that broad approach which industry generally is familiar with as there being a stronger regulatory approach than just price monitoring?

**Mr PIPER** — I was not certain, and I am not sure industry fully understands, what a building block model is and what that means in terms of the pricing structure. If that means that prices are kept to a reasonable amount that takes into account the capital infrastructure that needs to be developed — I mean, there will be new technologies that will need to be invested in — then I guess those issues will be taken into account in any increases in pricing because presumably that will create efficiencies for business and it might mean that the overall cost to business can decrease despite there being certain other pricing increases. But the area of concern in terms of pricing, as far as we were concerned, is that there is only a 15-year period for the CPI and beyond that there will not be a cap. So if you do not have anything beyond that, you are going to need to have a stronger regulatory regime to make sure that it does not get out of whack.

**Mr MULINO** — In terms of vertical integration, pre-lease the ACCC has scope to examine instances of vertical integration under part 4. Are you comfortable with the ACCC retaining those powers post-lease and being able to apply those powers to any proposed transactions?

**Mr PIPER** — In terms of vertical integration of stevedores and that type of approach?

**Mr MULINO** — Yes. If, for example, the lessee wanted to set up a stevedoring operation, would you be comfortable if the ACCC retained all its existing powers in relation to such a proposed transaction?

**Mr PIPER** — On the face of it, Mr Mulino, it seems reasonable for the ACCC to be dealing with that. It is what it does on a day-to-day basis in ensuring that there are the competitive neutralities and competitive values that are maintained, yes. But I think it would need to be specifically mentioned that the ACCC would be able to step in under these circumstances irrespective of what legislation the ACCC had itself.

**Mr MULINO** — Last question. I just wanted to touch on the broader issue of asset recycling. Are you comfortable with the broad notion that where an asset can be leased and regulated appropriately and operated at least as well, or hopefully even better, those funds can be used for much-needed infrastructure elsewhere, plus you add the commonwealth bonus on top — are you comfortable with that framework?

**Mr ONDARCHIE** — Provided all those conditions are in place.

#### **Members interjecting.**

**Mr MULINO** — You are comfortable with asset recycling as a broad framework? Both parties went to the last election supporting this, and one of the parties is obviously trying to back out at the moment.

**Mr PIPER** — Mr Mulino is leading the witness well.

**Ms SHING** — The rules of evidence do not apply here, Mr Piper.

**Mr PIPER** — Yes, we are. We are comfortable with asset recycling. We have an asset that is available in Victoria now. It can be sold. That may then be turned into other assets, and that is what the government is discussing. We think that is appropriate. We also have a view about intergenerational debt and intergenerational facilities that are being created. We think that is relevant and useful for the community, so we believe that that is one of the best ways that Victoria can take the next step towards developing what is so important in infrastructure around the state.

**Mr BARBER** — First of all, I want to say I take back all the mean things I ever said about the Australian Industry Group.

**Mr PIPER** — You are on record as saying that now, Mr Barber. Thank you.

**Mr BARBER** — Secondly, just while we are on this topic, do you think it is good that this port operator is sort of automatically given a CPI cap and they then have 15 years to think about what they want to do next? Would you accept in the case of electricity or water bills that they should automatically rise by CPI?

**Mr PIPER** — Given the changes that have occurred in utilities over the last few years, yes, we would have accepted a CPI increase on those over that period of time, so absolutely.

**Mr BARBER** — That is Harry Hindsight, world's greatest policymaker. But in this case, we have — as you started to talk about — the building block approach. The port and its operations and who depends on it and what goes on there and what might not happen is obviously a whole lot more complex for a regulator to look at than, say, electricity or water supply and demand. Therefore quite a few more pitfalls there, do you think?

**Mr PIPER** — The electricity industry is a particularly complex one in itself. When they want to gold plate our network and have been prevented from doing so — the ESC has prevented it from doing so and creating the increases that probably the utilities wanted it to at different times. I see no reason why the expertise could not be developed within the ESC to ensure that the port is required to do something similar, so there will be times when they need to invest in additional capital infrastructure to make sure that they are advancing. But you would expect that we have consultants, we have people who can develop expertise in those areas. I would have hoped that they would be able to question the port significantly enough to be able to get a reasonable response.

**Mr BARBER** — You have got a confounding factor here though, don't you, and that is that if we are approaching this compensation cap somewhere close to those 15 years, then there is another incentive at play, which is to sit back and collect a cheque by way of compensation instead?

**Mr PIPER** — I think that is an issue. I think there will need to be some form of regulatory measure to ensure that they continue to invest into the port. It is my concern that there is no encouragement for them to actually reach the limit, because as soon as they do then there is going to be potentially a second port that will be invoked. Therefore are you going to be encouraged to invest? I think the answer in reality will be yes, that that company will want to invest, they will want to make sure that the port is going to be the best in the country for that matter and they will want to be able to develop it because they will improve their profits. But it still will remain an issue that you will not have a certainty that they will be working on the same side as government and business, as we find at the moment.

**Mr BARBER** — VECCI also said that there should be measures in that area to give some certainty about the investment, but they could not tell us what that measure might be apart from keeping it in public ownership where you can then ask the government of the day to get in there and invest. What do you think a measure like that could do that could fit into all these other regulations that we have got?

**Mr PIPER** — I am not sure what those measures might be. I think that is for others within Treasury and who are conducting negotiations to ensure that something along those lines can be created. I think it is difficult for laypeople who have a strong interest in it but are still laypeople to be able to decide what those measures might be. But given the circumstances I would have expected that some sort of compromise could be reached.

**The CHAIR** — Mr Purcell?

**Mr PURCELL** — Thank you, Chair. I do not have any questions.

**The CHAIR** — Mr Ondarchie?

**Mr ONDARCHIE** — I have a couple of questions. Would you like to comment on the grand final public holiday? We are talking about the Victorian economy, that is all. I thought you just might want to comment on the economic vandalism of the government.

**The CHAIR** — Within the terms of reference.

**Mr ONDARCHIE** — Thank you.

**Mr PIPER** — I would like to, Chair, but I won't.

**Ms SHING** — Nice try, Mr Ondarchie, you scoundrel.

**Mr ONDARCHIE** — I am interested in Ai Group's view about the fact that this whole trigger point is an unknown. The message we are getting from the government is, 'Just trust us. We will proceed and it will all work out well; just trust us.' But we have a desalination plant in Wonthaggi and a — —

**Ms Shing interjected.**

**Mr ONDARCHIE** — that again gives examples about why would we trust you. What is Ai Group's view about proceeding with this when the government could potentially put in a trigger point that effectively makes this a monopoly for years and years to come anyway, and therefore no competition?

**Mr PIPER** — It will be a monopoly for many years to come; we do know that. As I see it, the trigger point from both sides, both the leaseholder and the government, would be as high as possible. The government will want to have a high trigger point because it will mean a higher price that they receive for the lease and any leaseholder will want to be able to push the time a second port is likely to come into operation as far out as possible, so I think under both circumstances the trigger point will be as high as they can justify.

Having been given an opportunity to listen to some of the questions that you have previously asked, I think we would like to know what that trigger point is going to be. We would like to know what the compensation is going to be. But that is not always the case with government contracts; we know that. I think there are many circumstances where we as businesses, we as the body that looks after the interests of business, would like to know many of the intricacies of government contracts and government legislation that we are not privy to, and sometimes we are never privy to it. There are commercial-in-confidence issues that we are told about that we simply cannot get involved with. We would like to know it, but under circumstances — and from both governments — they have been unwilling to provide matters because of commercial-in-confidence issues.

I guess the element of support that is given to us under these circumstances is that the government has said, firstly, that they will tell us what the trigger is going to be, so they cannot just leave that as commercial-in-confidence. They have agreed with the ACCC that will be the case; and then they have to answer for it. They have to answer to us and they have to answer to the community if they have failed to do the right thing by the community under those circumstances. I think that is most positive answer that we can give. Yes, we would like to see it, but if we see it afterwards and we are unhappy with it, then the government will still be made to reflect on their decision more than they would have been previously when we were not necessarily going to be aware of the trigger point.

**Mr ONDARCHIE** — I bet you would have liked to have known about a parade public holiday that got dumped on you as well.

**Ms SHING** — Thanks, Mr Piper, for your submission, for the comments that you have made as an adjunct to the announcement from the Treasurer today around the safeguards that have been built in and for your oral evidence to the committee this afternoon. Just on the question of compensation, and noting that there are concerns raised at least in your evidence today around the incentives to move to capacity, does it not improve the supply chain costs for your members and those businesses that you represent where everything that is possible is done to invest in the port to streamline efficiencies and ease up congestion?

**Mr PIPER** — Absolutely. We would prefer it that the port of Melbourne was able to have 10 million or 12 million. That is not the issue here though. The issue is that we, the experts and both previous governments of different persuasions have thought that Victoria will need to have a second port.

**Ms SHING** — That is not a point at issue. Everyone agrees that at some point a second container port will be required. There is, however, a use it or lose it provision that incentivises the successful bidder in relation to investment in the port. We have seen that happen with DP World and the on-dock rail and the way in which there are significant investments at West Swanson Dock, for example, to streamline the way in which goods are brought to market. That incentivises an occupant to invest, and compensation in fact provides that level of certainty. What do you say in relation to that point?

**Mr PIPER** — Preferably you would not have any compensation because that does introduce an element that is going to create difficulties. But I guess in any commercial discussion that you are going to have and in order to make the most of the value of the port you are going to have to provide some compensation because there will be a concern that any government could introduce a second port at any time and therefore be an immediate competitor with the business that has invested considerably — presumably considerably — into the port. You need to have that encouragement to invest.

**Ms SHING** — So it is about striking the right balance then?



**Mr PIPER** — It is about the balance that you have to ensure that no government is discouraged, or actively discouraged, from looking at investing into a second port, because if we do need to have one, you do not want the government to be stymied by any significant compensation that might be implemented.

**Ms SHING** — On that point as well, the ACCC — I am not sure whether you heard the evidence that was given today to this committee — again indicated a philosophical difference to the government on the question of compensation, so in that regard it seems that you are in lock step on that position, but they also indicated that the preparedness to publish the capacity levels and the trigger events and to bring that level of transparency was a welcome change around complementing the more robust economic regulatory framework that is also in place. What is your view in relation to that?

**Mr PIPER** — I hope I made that impression at the beginning of my introduction. We find that as a major improvement that has been made by the government. The fact that they are willing to divulge that information means that they will be accountable to it, and I think that is particularly important. It is a welcome improvement on what we saw before.

**Ms SHING** — On that basis and by reference to the comparisons, and I think you referred in your initial comments to the government's submission to the DTF submission, and also to the comparison of ports that features at the back of that submission as a table which sets out the way in which the pricing and regulation regimes operate, what is your view about the notion that the proposed transaction and the safeguards that have been built in, including today's, will in fact provide a much more certain framework within which to do business with the port of Melbourne as opposed to other ports around Australia?

**Mr PIPER** — I think we only learn by the mistakes of others. If they have made mistakes in relation to the other ports, it does not mean we should follow them. Simply because they have got a less regulatory regime or they have been more willing to provide support for a longer lease, for example, it does not mean that we should follow the same tack. I think we should look to other states, whatever it might be, to see what they have done to ensure that we do not make some of the errors that first movers inevitably do. Simply because the ports in Brisbane, Newcastle and Sydney have opted for different approaches to that which we have in Victoria, it does not mean that we necessarily — —

It does mean that we are going to do a better job, but I do not think we should be looking at them and saying, 'That's the comparative that we need to make'. It should be what is best for us here.

**Ms SHING** — But what is best for us in relation to the DTF submission actually indicates that there is a more robust framework, there is more certainty and there is more transparency when assessed and benchmarked against other states, particularly around the way in which commercial arrangements are entered into and the way in which there is external regulation.

**Mr PIPER** — That is what DTF suggests in its submission, yes, and I hope that is the case. Certainly if the ESC is given a stronger role, that would assist as well.

**Ms SHING** — As per the indications today, you mean?

**Mr PIPER** — As per the indications today. I think that is important. I do not think we have reached the best point yet. I think your inquiry should be able to make some more recommendations that will improve where the government now sits. I think if you adopt a pragmatic role to this, recognising that I think this has to happen, we need the safeguards that are not going to mean that we have significant price increases into the future but that they are reasonable, they allow investment, they allow a profit incentive and they keep the port at the forefront for Australia. It is, as you know, the container port of choice for most South Australians and Victorians at the moment.

**Ms SHING** — And that they strike the right balance, for example, in third-party involvement such as the DP World negotiation — that that benchmark, having been set, would not then in effect be a nightmare that future investors might contemplate?

**Mr PIPER** — If you are talking about the 720 per cent increase that was being proposed at one stage for the costs there — —

**Ms SHING** — The negotiated agreement is what I am referring to. The ACCC has indicated that the DP World resolution has in fact sorted out the land rents issue on the amounts paid by stevedores until the 2030s or so and set a benchmark in that regard. That is the sort of level of certainty you are advocating for?

**Mr PIPER** — I do not know what that agreement is, but I would hope that is the type of certainty that would be included in this legislation, yes.

**Mr DRUM** — What are your thoughts about the Treasurer's comments that if he cannot get this process through the legislation, he will just go around the Parliament?

**Mr PIPER** — I think that what we want to see is this port being leased and therefore the money being returned to the Victorian government in order to create more infrastructure opportunities. How that is done will be for you people within the Parliament to decide, but what I would hope is that we get the best value for money from having the opportunity to lease that asset.

**Mr DRUM** — Is value for money from the sale of the port more important than a once-in-a-lifetime opportunity to get the operation of the port in place prior to selling?

**Mr PIPER** — Sorry, can you repeat that?

**Mr DRUM** — Is it more important that the state gets as much as it can from the sale of the port? Is that more important than taking this once-in-a-lifetime opportunity to put in place maybe the optimum operating procedures within the port of Melbourne?

**Mr PIPER** — It is important that we have a compromise between the two. That has been part of the discussion.

**Mr DRUM** — In relation to a lot of the other evidence we have heard everyone knows that the port of Melbourne is going to max out its capacity on today's figures and on today's growth in 2028 at the lowest capacity we have heard, and in 2035 at the highest capacity we have heard. So in sometime around 11 or 20 years the port is going to max out. Do you think it is a bit unusual for a government to say, 'We're not really concerned about where the extra port is going to go. We've got enough capacity in the existing port, so we're just going to flog it off. We'll sell it for what we can and we'll leave the discussion about where a future port might be located, where it will be built and who is going to build it to down the track'. Do you think that is a bit strange?

**Mr PIPER** — I suspect we are all very interested in where a second port is going. Both parties have indicated publicly that they have differing views, and they have all been interested in where a second port might be, whether it is at Hastings or whether it is on the other side, so — —

**Mr DRUM** — I think it is irrelevant where it is built. The concept is that we have to have a second one in a reasonably short space in this state's history or in the state's future. We are talking somewhere from 11 to 20 years away. We have also heard evidence that once any city anywhere in the world maxes out its port and puts in plans in place to build a second one — maybe 10, 15, 20 or 30 kilometres up the river or up the bay or wherever — the ships will not call into both ports. They will either go to the new port or go to the old port, but they will not go to both. Are you aware of that sort of evidence? Are you aware of that sort of scenario happening?

**Mr PIPER** — I have not heard that evidence, but it seems evident to me that the large ships that we want to encourage into the port are going to stop at one or the other.

**Mr DRUM** — Are you aware of some of the constraints around the existing location of the port, such as the bigger ships now clearing the West Gate Bridge by about 4 metres and the bigger ships now having a draught that lets them get through the heads by about 1 metre? Are you aware that we have limited quayside metreage that we are able to expand? We have got all of these contributing factors — this ridiculous congestion around the west of Melbourne on the roads — and yet this government has a plan in place to triple the movements of containers at that existing site when there is so much evidence that we keep hearing that it is only going to be for a short time relatively. Does the AIG have a view on where we sit with the future?

**Mr PIPER** — We certainly do, but I am not going to suggest one side of the bay or the other at the moment in these circumstances — —

**Mr DRUM** — We do not care about where, but do we think that the future should form part of our process for what we have in front of us now?

**Mr PIPER** — In the sense that the future in regard to this contract should not be giving the new port operator the first right of refusal, the first opportunity to deal with another port. It should be open slather, if you like, to anybody else who can develop a new port. I would have suspected that a greenfield site is going to be able to develop huge efficiencies that we probably do not have the moment. There are difficulties with both the port sites that are being contemplated, which may or may not be dealt with by the size of the ships. But certainly it is something we think needs to be taken into account, and this goes to the crux of your question in that it is not that far away. I am surprised it is only 20 years away. People that I have discussed it with — —

**Mr DRUM** — At the maximum.

**Mr MULINO** — No, someone said longer.

**Mr PIPER** — People I have discussed it with are suggesting longer, but you have experts who will tell you from 15 to 35 years. What worries me more is the length of the compensation that might be given to those. If it is 15 years or 25 years, we are going to be required to compensate a port for an additional 25 years, and that could be expensive.

**Mr DRUM** — You were in the room earlier when I was asking the previous witnesses to try to give me a scenario as to how it might work, how a future port might in fact be built, and they could not answer. Can you answer?

**Mr PIPER** — How a future port could be built in terms of the cost of the facilities?

**Mr DRUM** — If we just pluck a figure of capacity at, say, 7 million or 8 million TEUs, or whatever figure you want to pluck, and as we work our way toward that in the future, how on earth with this compensation deal hanging over our heads are we going to get a second port built in readiness for when this port here does in fact max out?

**Mr PIPER** — I think you were tough on them at the time, because it is hard to give you a direct answer to that, but inevitably that will mean it is going to be government that creates the opportunity for a new port. Government will have to invest in it initially to encourage a retail investor to come in and do something with it. It is probably one of the pitfalls of our investor system that so many of our investors do not want to go into a greenfield site. They want to go into something that has already been established, where they know what their return is going to be. If that does not change, then it is going to be government again that has to be able to support the system to make it happen.

**Mr DRUM** — Some government in the future is going to have to build a new port when the money from this port site has already been spent?

**Mr PIPER** — Yes.

**Mr DRUM** — The last one is that everybody wants to know what this capacity is going to be. The government has said now that it is going to let us know after the event. Why would your group not be advocating for the government to get some independent advice on what the real and true capacity of the existing port of Melbourne is, and that would then put all of this conjecture aside?

**Mr PIPER** — I would be surprised if the government has not got independent advice as it is, because the point is they have to have a position from which they can then negotiate with any new commercial operator. Of course they want it to be high, because not that long ago we were talking 5000 TEUs for the port and now it is at about 8000 as the maximum; there is quite a difference. But you could get two independent experts that will differ on that as well.

**Mr DRUM** — We have already had those independent experts differ before us as a committee, and we do not know who to believe.

**Mr PIPER** — That will be for you to determine.

**The CHAIR** — I am not sure Mr Piper is in a position to tell us.

**Mr DRUM** — That is okay, I just wanted to know. As I say, we had this practical scenario — —

**The CHAIR** — Mr Drum, we need to keep going.

**Mr PIPER** — And I am sure that is based around efficiencies and technologies that are going to be introduced down there.

**Mr DRUM** — I think it is largely based around getting more money for a higher capacity.

**Ms SHING** — Take that as editorial.

**Ms TIERNEY** — Good afternoon, Tim. I think the answer really lies on the last page of your submission, which recommends that Infrastructure Victoria should commence the process of considering and recommending the best site and the best timetable for establishing a second container port for Melbourne. Clearly that is a body that would be looking at the capacity issue and would be able to draw expertise and advice from a range of organisations and bodies.

I would assume that your organisation is supportive of Infrastructure Victoria, because it takes the hypotheticals out of the equation at the end of the day; but it also means that the electoral cycles and the short-term political grabs are taken out of the cycle — as much as they can be — and that we can have a proper analysis of infrastructure projects before us. Is that correct?

**Mr PIPER** — I could not have put it better myself. Infrastructure Victoria is something we supported to both political parties. We think it will hopefully depoliticise it all.

**Mr BARBER** — I seem to remember voting for it.

**Mr PIPER** — I am sorry, Mr Barber, for not including the Independents as well. To all parties we suggested it would depoliticise what are very long-term investments, and that is what we think Infrastructure Victoria can do. Obviously we want to get the independent advice that might come through them — I agree with you.

**Ms TIERNEY** — Whilst you are with us today, can I gain some indication of the level of support your membership has in relation to the level crossings removal project, Melbourne Metro rail, the West Gate distributor and the Murray Basin rail project.

**Mr PIPER** — We are supportive of infrastructure developments in Victoria. One of the things that Infrastructure Victoria itself might do is prioritise whatever those infrastructure developments could be, rather than having them be just for one government to determine. That would be an improvement if we knew what the pipeline was going to be.

I represent the Victorian major constructors infrastructure forum, which is the big six construction companies in Victoria. They want a pipeline, and I think that is what IV might be able to do — that is, create a pipeline and know where the priorities are. Whilst those that you have mentioned have been positives and should continue to be, and certainly the rail crossings will improve efficiencies and improve the road system around Melbourne, we need to make sure that is the priority for the economy.

**Ms TIERNEY** — I believe that would be consistent with the government's priority as well, because we all need to plan labour markets as well as make sure that we have the appropriate skill bases that line up with the jobs that are coming on at particular points in time.

**Mr PIPER** — You are moving into an important area, so far as our group is concerned, about the skills that we are able to create and maintain in the state. If we can have a pipeline, it means you can invest in the skills base and continue to have a long-term option for people to be staying in Victoria, building infrastructure in Victoria, rather than moving — as we are finding at the moment — into New South Wales, and previously Queensland, because of the infrastructure developments there.

**Ms TIERNEY** — Local people for local jobs.

**Mr PIPER** — Thank you, I agree that local procurement is very important.

**Mr ONDARCHIE** — A new public holiday does not help.

**Ms SHING** — Scallywag, Mr Ondarchie!

**The CHAIR** — Mr Piper, thank you very much for your evidence this afternoon on behalf of Ai Group. Everybody very much appreciates your testimony and the written submission that Ai Group made earlier. I indicated at the start of the hearing this is a moving area currently, so we may have some matters we wish to follow up with you. We appreciate your efforts and we will have a draft transcript for you in the next couple of days.

**Mr PIPER** — We appreciate being here, Chair, and I reiterate that the value of an inquiry such as this is that you get changes that the community, the business community and others are seeking, and I think we will end up with a better position than we might have done otherwise. It is an example of how improvements can be dealt with within parliamentary procedures.

**The CHAIR** — Thank you, Mr Piper, and the committee certainly appreciates those comments as well. Thank you very much.

**Committee adjourned.**