

Government Response to the Select Committee Inquiry into the Lease of the Port of Melbourne

Inquiry Recommendation	Bill Amendment
1 – Committee recommendation that the Legislative Council support the Bill, subject to the Government proposing amendments to the Bill consistent with policy changes outlined in the Committee report.	<ul style="list-style-type: none"> • N/A
2 – Lease term be limited to 50 years and 30 days.	<ul style="list-style-type: none"> • Accepted by Government • Clause 11 of the Bill amended to remove additional period of up to 20 years; maximum lease term is 50 years and 30 days
3 – The Bill be amended to allow for the ‘as-of-right’ disallowance of statutory instruments by either House of Parliament pursuant to section 23(1)(a) and section 25C(1)(a) of the <i>Subordinate Legislation Act 1994 (Vic)</i>	<ul style="list-style-type: none"> • Accepted by Government • No specific amendment required in Bill • Consistent with standard government practice, regulations and legislative instruments are subject to disallowance under the <i>Subordinate Legislation Act 1994 (Vic)</i>
4 - The Government progress the Port Rail Shuttle project.	<ul style="list-style-type: none"> • Accepted by Government • Bill amendments included a new Part 6C in the <i>Port Management Act 1995</i>, requiring a Rail Access Strategy within three years, including stakeholder consultation on rail strategy and to be implementable within five years if Government accepts the plan • Rail Access Strategy requires consideration of the Port Rail Shuttle
5 - The Government: <ul style="list-style-type: none"> (a) develop a comprehensive transport plan of the additional links that Port expansion will require (b) include provision for a rail link to Webb Dock by the most cost effective means (c) ensure that local councils and communities are consulted in the planning. 	<ul style="list-style-type: none"> • Accepted by Government • Refer Recommendation 4 response - new Part 6C for a Rail Access Strategy to be incorporated into the <i>Port Management Act 1995</i>
6 – The Government provide ongoing monitoring of the condition and major impacts on the Bay by: <ul style="list-style-type: none"> (a) amending the Bill to re-establish the Office of the Environmental Monitor; and 	<ul style="list-style-type: none"> • Accepted by Government • No amendment required to the Bill • The Government is currently considering options on delivering an efficient

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(b) preparing and releasing publicly a 'State of the Bay' report on a regular basis.	<p>environmental monitoring mechanism that complements existing mechanisms and does not create unnecessary red tape.</p> <ul style="list-style-type: none"> The independent Commissioner for Environmental Sustainability will release a State of the Bay report by December 2016. The Government is committed to releasing this report on a five yearly basis.
7 - Clause 90 of the Bill be amended to ensure that the objectives under section 48 of the <i>Port Management Act 1995 (Vic)</i> include an objective to protect the interests of users of prescribed services by ensuring that prescribed prices are fair and reasonable.	<ul style="list-style-type: none"> Accepted by Government Bill amended clause 89 to reflect the 'fair and reasonable' concept
8 - The Bill be amended to provide a mechanism for complaints regarding pricing to be directed to the Essential Services Commission (ESC).	<ul style="list-style-type: none"> Accepted by Government Clause 92 of the Bill amended to include a new Division 2C in the <i>Port Management Act 1995</i> to provide the ESC with a complaints handling function relating to the provision of prescribed services
<p>9 – The Government:</p> <p>(a) amend clause 90 of the Bill to extend prescribed services to include the granting of a lease or sub-lease by the Port of Melbourne for the purposes of terminals or stevedoring operations; and</p> <p>(b) provide within the Pricing Order a rent capping mechanism that prevents the exercise of monopoly power in relation to leases or sub-leases.</p>	<ul style="list-style-type: none"> Accepted by Government The Bill inserted a new section 53 of the <i>Port of Management Act 1995</i> for the conduct of inquiries by the ESC into the misuse of market power to follow clause 93
<p>10 – The Bill be amended to prohibit:</p> <p>(a) an entity engaged in stevedoring or terminal operations becoming a Port operator; and</p> <p>(b) a Port operator engaging in stevedoring or terminal operations, other than in exceptional circumstances that require a temporary 'step in'.</p>	<ul style="list-style-type: none"> Accepted by Government Vertical Integration restrictions are specified in transaction documents
<p>11 - The Bill be amended to:</p> <p>(a) exclude the enabling provision for the Port Growth Regime (see</p>	<ul style="list-style-type: none"> Accepted in principle by Government Amendments restrict any Port Growth Regime payments to the Port of

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<p>subsequent recommendation in relation to clause 69)</p> <p>(b) prohibit the inclusion in contract of a compensation or refund mechanism however so defined.</p>	<p>Melbourne operator to the 15 years from the lease commencement</p> <ul style="list-style-type: none"> Amendments also allow an annual compensation cap of 15 per cent of revenues (excluding rents) of the Port of Melbourne operator at the time any State sponsored second port commences, adjusted by CPI
<p>12 - The Bill be amended to omit clause 69 thereby preserving the full application of the <i>Competition and Consumer Act 2010 (Cth)</i> and the Competition Code.</p>	<ul style="list-style-type: none"> Accepted by Government Bill amendments removed clause 69 and preserved the full application of the <i>Competition and Consumer Act 2010 (Cth)</i> and the Competition Code
<p>13 - Clause 83 of the Bill be amended to omit section 44HA allowing the Treasurer to require payment of an upfront lump sum Port Licence Fee rather than annual Port Licence Fees.</p>	<ul style="list-style-type: none"> Accepted by Government Bill amendments to clause 83 limit upfront PLF payments to the State from the Port of Melbourne operator to a maximum of 15 years, reverting to annual payments to the State after 15 years
<p>14 – Publication, prior to the release of the Expression of Interest, the amount of the Cost Contribution Amount to be passed onto the Port operator and the basis of its calculation.</p>	<ul style="list-style-type: none"> Accepted by Government No specific amendment required in the Bill A cost contribution has been calculated such that Victorian Ports Corporation (Melbourne) will charge the Port of Melbourne operator an annualised \$15 million in FY17, growing at CPI through FY23. From 1 July 2023, the cost contribution will be 20 per cent of channel fees until the end of the lease term. The cost contribution will be deemed an efficient cost under the regulatory pricing regime and will be recoverable by the Port of Melbourne operator from users. This is not an additional impost. It merely reflects the fee for services to be provided by Victorian Ports Corporation (Melbourne) to the Port of Melbourne operator. These services are currently internalised in Port of Melbourne Corporation and included in tariffs.
<p>15 - The Government, ahead of the lease transaction, commit to allocating a minimum percentage of net lease proceeds to rural and regional logistics infrastructure.</p>	<ul style="list-style-type: none"> Accepted by Government Bill amendments to clause 15 require a minimum 10 per cent of payments out of the Victorian Transport Fund being made to regional infrastructure

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	<p>projects.</p> <ul style="list-style-type: none"><li data-bbox="1070 199 2038 375">• The Government has made significant investments in the <i>2016-17 Budget</i> in rural and regional infrastructure, and has provided \$200 million for an Agriculture Infrastructure and Jobs Fund, and \$500 million for a Regional Jobs and Infrastructure Fund, both of which will make further investments in infrastructure projects in rural and regional Victoria.