

INQUIRY INTO THE PROPOSED LEASE OF THE PORT OF MELBOURNE – 30 Sept 2015

FREIGHT & TRADE ALLIANCE (FTA)

Freight & Trade Alliance (FTA) was established in September 2012 with a vision to establish a global benchmark in Australian border related security, compliance and logistics activities.

Our membership consists of 211 importer, exporter and trade service providers which collectively control in excess of 70% of container volume through Australia's East Coast ports.

Over the last three years, FTA has had an interest in the NSW port privatisation and the proposed lease of the Port of Melbourne as contemplated by the *Delivering Victorian Infrastructure (Port of Melbourne Lease Transaction) Bill 2015*.

EXECUTIVE SUMMARY

Private sector owners will aim to maximise returns for shareholders through consistent and structured long term management of the ports. FTA sees merit in privatisation for this reason in preference to having a revolving door of port ministers each with differing interests and strategies.

As a part of the Port of Melbourne privatisation process, FTA sees a need to minimise the potential for monopoly arrangements to facilitate intra-state port competition. Furthermore, proceeds from the lease should be used to further develop necessary infrastructure to support port related activities. This includes a network of inland ports in Melbourne to efficiently manage the growing international trade task.

FTA would also like to raise the following key issues for consideration by the Select Committee:

1. What oversight and regulation will the government establish to ensure efficient container management via the Port of Melbourne?
2. What safeguards on stevedore rent increases will be introduced and how will controls prevent cost recovery on third party transport providers?
3. What drivers of efficiency will exist with the introduction of monopoly compensation and the removal of any intra-state port competition?
4. What arrangements are being introduced to guarantee that inland port projects are established?
5. Will the Port Development Strategy or similar supply chain planning mechanism be used in the future operational and regulatory environment?
6. How will the leaseholder be prevented from pursuing stevedore or port related supply chain activities?
7. What additional assurances and justifications will be established to inform the relevant minister of price increases?

REPRESENTATIVES



Paul Zalai – Director [REDACTED]

Peter Hodder – Victorian Representative [REDACTED]

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TERMS OF REFERENCE

REFERENCE A - The structure and duration of the proposed lease

Container supply chain management

Once the port is privatised the Government will have a reduced opportunity to monitor the operational performance of the Port and are likely to be much more “hands-off” in that regard.

In contrast, the Port Botany Landside Improvement Strategy (PBLIS) regulates disciplines such as transport arrival times, stevedore slot allocation and servicing of trucks within prescribed turnaround times. PBLIS was originally administered by the Sydney Ports Corporation with the ongoing management of the regulations staying with Transport for NSW post privatisation.

There is a case to be made for the Victorian Government to put in place processes to not only adjudicate on port pricing issues, but to also undertake independent monitoring of the operational performance of the Port. A method to achieve this, short of PBLIS-style legislation, would be for the Government to establish monitoring mechanisms similar to those conducted by the PBLIS NSW Cargo Movement Coordination Centre (CMCC), and to publish operational performance statistics on a regular basis.

DP World have been proactive in this regard in developing a Customer Portal and along with Patrick have improved in communicating operational performance and unforeseen events (i.e. weather related delays / ships “off-window” / yard delays, etc). Whilst DP World now report Truck Turnaround Times (TTT), they are still dealing with averages.

The other issue of concern is that TTT measures are from gate to end of job in the Terminal. In Melbourne, we understand that transport operators have never been able to reach agreement with stevedores to measure truck TTT from the time the trucks legitimately queue outside of the Terminal just prior to or during their relevant zone.

There is also no accurate measure of two-way running or “stack run” performance that Governments should concern themselves with, given the broader impact of Port operations on community amenity, road congestion and other social factors.

These are the sorts of issues that an independent CMCC could address, as well as the operational performance of other parts of the container transport chain, including empty container management, which are vital to the overall performance and capacity of the Port into the future.

For further detail, we highly recommend that the committee review the “*Stevedore Carrier Access Agreements (CAAs) - A Fairer Go for Container Road Transport Operators*” report prepared in April 2015 by the Container Transport Alliance Australia (CTAA).

ISSUE 1 – What oversight and regulation will the government establish to ensure efficient container management via the Port of Melbourne?

Stevedores' rents not regulated (Clause 90)

The Bill provides for oversight of port charges by the Essential Services Commission but we understand specifically excludes stevedore rents from price regulation. Enhanced regulation via amendment to the Bill and via intervention by the Australian Competition and Consumer Commission (ACCC) is required to monitor this issue.

The experience in Brisbane was that rents were significantly increased with the port privatisation resulting in stevedores introducing a common cost recovery mechanism via an infrastructure charge administered by through the Vehicle Booking System (VBS).

Regulation is required to oversee and administer any rental increase and to prevent costs being recovered via the VBS. Any increase in rental costs should either be absorbed by the stevedore or recovered via contractual arrangements with their commercial client being the shipping line. Shipping lines can then make a commercial decision whether to absorb these costs or to negotiate increased terms with their freight forwarder, importer and exporter clients. This is seen as a preferable outcome to the imposition of new fees via the VBS on third party transport operators that will result in inflated costs cascading through the supply chain to the exporter and importer.

ISSUE 2 – What safeguards on stevedore rent increases will be introduced and how will controls prevent cost recovery on third party transport providers?

REFERENCE B - The potential impacts of the proposed lease on the development of a second container port in Victoria

REFERENCE F - how the proposed lease balances the short-term objective of maximising the proceeds of the lease with the longer-term objective of maximising the economic benefits to Victoria of container trade

Monopoly compensation (Clause 69)

The Bill would allow the Government to lease the port as a 70 year monopoly and contemplates that compensation would be payable to the leaseholder if a second container port were developed. We understand that the terms of the monopoly compensation deal is not contained in the Bill but would be at the discretion of the Government.

This outcome is not too dissimilar to what was introduced in NSW with Port Botany and Port Kembla being packaged as single sale and the Port of Newcastle being prevented from handling containerised trade.

Whilst this outcome allows interstate port competition to exist, it removes any potential for intra-state port competition.

The monopoly provision is clearly intended to maximise the value of the port. Whilst this is understandable, the financial gain needs to be weighed up against the benefits of genuine port competition, efficiencies for commerce and jobs growth.

ISSUE 3 – What drivers of efficiency will exist with the introduction of monopoly compensation and the removal of any intra-state port competition?

REFERENCE C - the potential impacts on the environment of the further expansion of the Port of Melbourne

Increased Rail Utilisation

Currently 100 per cent of all imports and exports destined to, or originating from, metropolitan locations are transported to and from the Port of Melbourne on trucks, which is not only unsustainable and inefficient but also has adverse environmental impacts.

We understand from the Salta Properties submission that proposed intermodal solutions could reduce truck emissions by 23,000 tonnes of Co2 equivalent per annum.

ISSUE 4 – What arrangements are being introduced to guarantee that inland port projects are established?

REFERENCE D - The potential impacts of the proposed arrangements on the competitiveness of the Port of Melbourne, the supply chains that depend on it and cost effects on goods passing through the Port of Melbourne

Port Development Strategy

Earlier this month Phillip Hopkins of The Age suggested that Melbourne's lack of rail will contribute to Botany overtaking Melbourne in container volumes. Unless Victoria embraces a rail strategy there is no doubt that this prediction will become a reality.

In 2007 the Victorian Government announced the Metropolitan Freight Terminal Network (MFTN) concept. That same year funds were allocated to the project, originally \$100M. The project was later rebranded by the coalition as the Port Rail Shuttle (PRS) project but the Government's enthusiasm was unabated, industry was supportive and research fully endorsed its viability including reports produced by Deloitte, the Victorian Freight & Logistics Council (VFLC) and the Port of Melbourne Corporation.

In 2014, we understand that the Department of Planning, Transport and Local Infrastructure (DPTLI) released an Expression of Interest for the building of the inland port network but the process was abandoned due to the Port of Melbourne sale with no stated way forward.

These are not separate issues. We cannot talk about port privatisation without demanding consideration to landside integration yet we see no planning despite the Port Management Act 1995 requiring a Port Development Strategy to be produced every four years. We understand that the last Port Development Strategy was produced in 2009.

As outlined in our correspondence to the Select Committee dated 9 September 2015, FTA supports the formal submission submitted by Salta Properties as a means of achieving a more efficient and productive Port of Melbourne delivering benefits to the entire supply chain.

ISSUE 5 – Will the Port Development Strategy or similar supply chain planning mechanism be used in the future operational and regulatory environment?

REFERENCE E - the effectiveness of the proposed regulatory framework in dealing with the transfer of a monopoly asset from the public sector to the private sector

Vertical integration

The Bill does not prevent or restrict the leaseholder from pursuing stevedore operations and in that scenario using its position as a vertically integrated monopolist to undermine stevedore competition by favouring its own stevedore operations.

ISSUE 6 – How will the leaseholder be prevented from pursuing stevedore or port related supply chain activities?

Price oversight and CPI cap not implemented (clause 91)

The price regulation framework, including the proposed 15 year CPI price cap, is not implemented under the Bill. Rather, the Bill provides that the Government may make a pricing order, in whatever manner it sees fit, to regulate port prices. This means that the Government ultimately retains flexibility in implementing the approach to price regulation throughout the negotiation of the port lease.

In NSW we received assurances from Mike Baird, when he was treasurer, that there would be additional assurances to inform the relevant minister of price increases and to justify them.

The features outlined by the treasurer included:

- all NSW ports must give notice of any proposed change in its service charges, provide a rationale for how a price charge is calculated, and why it is needed;
- the port lessee must also provide annual reporting of charges to the relevant Minister, and the Minister can require information relating to port charges be supplied to Government;
- if the pricing behaviour is deemed to be inappropriate, the Minister has the ability to refer the port pricing to IPART; and
- a port user can always apply to the National Competition Council to have the asset declared as nationally significant infrastructure under Commonwealth legislation in the event of pricing disputes.

ISSUE 7 – What additional assurances and justifications will be established to inform the relevant minister of price increases?



Treasurer
Minister for
Industrial Relations

Reference: EA 302618

Mr Paul Zalai
Director
Freight and Trade Alliance (FTA) Pty Ltd

7 NOV 2012

Dear Mr Zalai

Thank you for your email of 19 October 2012 regarding the *Ports Assets (Authorised Transactions) Bill 2012*.

I note your interest in the Government's proposed port transactions, in particular the concerns you have about future port pricing relating to Port Botany.

In determining the appropriate port pricing structure for NSW ports following the transaction(s), Government sought and received advice in relation to the pricing regimes at other Australian ports and the regulatory environment generally applying for ports in Australia. The key components of the proposed regime are described in the *Ports Assets (Authorised Transactions) Bill 2012*.

These features include:

- all NSW ports must give notice of any proposed change in its service charges, provide a rationale for how a price change is calculated, and why it is needed;
- the port lessee must also provide annual reporting of charges to the relevant Minister, and the Minister can require information relating to port charges be supplied to the Government;
- if the pricing behaviour is deemed to be inappropriate, the Minister has the ability to refer the port pricing to IPART; and
- a port user can always apply to the National Competition Council to have the asset declared as nationally significant infrastructure under Commonwealth legislation in the event of pricing disputes.

The pricing regime is generally consistent with most other major Australian ports and accords with competition principles adopted by the Council of Australian Governments. I also note though that the proposed pricing regime for Port Botany and Port Kembla is clearer and more transparent than the pricing regime under the recent Port of Brisbane transaction.

On the matter of the Port Infrastructure charge, the Bill sets out a mechanism for the new landlord to be able to charge relevant parties for new specified infrastructure projects at or near the port that the landlord pays for. The Port Infrastructure charge is designed specifically to assist with improving landside freight movement to accommodate future growth and it will be subject to the price monitoring regime.

The Bill describes the information that the landlord must provide to the Government in relation to any proposed Port Infrastructure charge - what the charge is funding, how it is calculated and who it is proposed would pay the charge. The Bill also provides that the charge is subject to the price monitoring scheme. Ultimately the Government has final say over these projects and charges.

I can also inform you that the Government intends to charge the new landlord an additional annual rental as a further contribution towards the costs of landside logistics improvements in the vicinity of the port.

Further information about the long term lease of Port Botany can be found at http://www.treasury.nsw.gov.au/ports_transactions

Please do not hesitate to contact me in the future if you require further clarification regarding the long-term leases of Port Botany and Port Kembla.

Yours sincerely



MIKE BAIRD MP