



Our ref: 20140320/ESC Submission

20 March 2014

Dr Ron Ben-David
Chairperson
Essential Services Commission
Level 37, 2 Lonsdale Street
MELBOURNE VIC 3000

Dear Dr Ben-David

Essential Services Commission Review of Prescribed Port Services 2014

Port of Melbourne Corporation (PoMC) is pleased to provide the following submission to the Essential Services Commission's (ESC) Review of Victorian Ports Regulation 2014.

PoMC acknowledges that the review is being undertaken in accordance with section 53 of the *Port Management Act 1995* (Vic) which requires the ESC to conduct an inquiry (every five years) of Victorian ports economic regulation and make a recommendation to the Minister administering the *Essential Services Commission Act 2001* (Vic) whether certain prescribed services should continue to be subject to price regulation and if so, the form of that price regulation.

PoMC has been advised by the ESC (31 January) that it would shortly commence the review and that the review would address the following matters:

- a whether or not prescribed services should be subject to price regulation and the form of that regulation
- b any transitional matters if the ESC recommends changes to the form of regulation.

PoMC provides this submission to inform the ESC's review of port regulation.

The matters discussed in this submission represent the significant changes that have occurred in the economic environment in which PoMC operates, particularly since the Price Monitoring Determination for Victorian Ports 2010 was released and the impact that these significant changes have had on PoMC's operational capabilities and the competitive environment in which PoMC's services and facilities are offered.

Since its establishment on 1 July 2003, PoMC has been involved in two reviews by the ESC of Victorian ports regulation (2005 and 2010). PoMC made submissions to both of these reviews which highlighted the many external factors that impact PoMC's operation and its pricing determination process. PoMC's long standing position has been that the Port of Melbourne should not be subject to price regulation and that there are sufficient external factors and market forces to ensure that PoMC's prices and the Port of Melbourne remain competitive.

PoMC notes that the level and extent of regulation recommended by the ESC, following the 2005 and 2010 reviews has substantially reduced and that the current regulatory regime applied to PoMC is in the form of a "light handed framework". This regulation is applied to PoMC's prices for the provision of services and facilities related to the following trade sectors: containers, automotive and channels. PoMC acknowledges the conclusions reached by the ESC following the 2010 review regarding PoMC's "market power" and has complied with all requirements of the 2010 Determination.

PoMC notes that the objective of the ESC is to "promote the long term interests of Victorian consumers with regard to price, quality and reliability of essential services" and in achieving this objective the ESC must have regard to the following:

- efficiency in regulated industries and incentives for long-term investment
- the financial viability of regulated industries
- existing and potential competition within the industry
- the relevant health, safety, environmental and social legislation applying to the regulated industry
- the benefits and costs of regulation for consumers (including low income or vulnerable consumers) and regulated entities
- consistency in regulation between States and on a national basis.

In light of the above, PoMC has reviewed its operating environment against these matters and notes that there have been a number of significant changes to this environment since the 2010 Determination which are relevant to and align with the achievement of these outcomes. These changes have impacted on the nature and level of competition faced by PoMC, and include the following:

1. **The privatisation of competing ports (Sydney, Brisbane and Port Kembla, and the existing privatisation of Port Adelaide).** Under this new scenario, it is now more important than ever that there is, as noted by the ESC, consistency in regulation between States and on a national level.
2. **The introduction of the Port Licence Fee (PLF) in July 2012.** The recovery of this legislated fee, which requires PoMC to pay an annual amount of \$75 million (escalated by CPI) to the Victorian Government required PoMC to increase its prices by 52.6% in July 2012 (49.6% of this increase being related to the introduction of the PLF). PoMC's prices are in the same order with its competitor ports.
3. **The impact of the global financial crisis (GFC) and re-stabilisation of global economies has meant that trade growth volumes are now well below what they were in the pre GFC era.** These lower trade growth volumes have impacted on the ability of ports to generate revenue and thus has intensified the competition between ports to maintain their existing market share, in particular their share of trade from those areas that are highly contestable.

4. **The event of increased competition within the Port of Melbourne itself** (i.e. the proposed third international container terminal and consideration of access regimes and pricing associated with the development of a proposed new automotive terminal). This development will not only mean an additional international container terminal for the Port of Melbourne but importantly will also herald the entry of a new operator and therefore intensified competition within this trade sector both within the Port of Melbourne and with competitor ports. Significantly, PoMC is investing in the development of the new container and automotive facilities at Webb Dock demonstrating PoMC's commitment to increasing competition, promoting increased efficiencies and the growth of trade in the port.
5. **Port of Melbourne operates within a broader competitive transport system.** In this system the relevant port service charges applied by PoMC (wharfage and channel fees) contribute approximately 12% percent of the total port interface costs as defined and published by *Waterline* (No. 53).
6. **Increased concentration of shipping alliances and the countervailing power associated with this development.** For example, the G6 Alliance (including Hapag-Lloyd and NYK Line) was formed in late 2011 and the P3 Alliance (Maersk Line, Mediterranean Shipping Company S.A. (MSC) and CMA CGM) in mid-2012 (with a view to commencing operation in July 2014). Although these alliances trade on the East-West routes, there is potential for the impact of these alliances to cascade down to the North-South trade routes, of which Australia is a part. A greater concentration of shipping lines intensifies their countervailing power over deciding on which ports they call, the number of services they schedule and the frequencies at which they visit.

PoMC considers that these factors have resulted in increased competitive pressures on its operations and pricing decisions, and therefore, consistent with previous submissions to the ESC for the 2005 and 2010 regulation reviews, PoMC's position is that there is no evidence of 'abuse' of market power by PoMC, and PoMC can see no reason why this would occur in the future.

PoMC is of the view that the current price monitoring regime is unnecessary and therefore should not continue. As outlined in this submission, this position is reinforced by the changing nature of PoMC's existing operating environment, an environment which increasingly demands cost and service efficiencies to remain competitive.

If you require any further information or assistance, please do not hesitate to call Ms Caryn Anderson, Executive General Manager Commercial on Telephone (03) 9683 1624 or via email: Caryn.Anderson@portofmelbourne.com.

Yours sincerely



Nick Easy
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