

## The Victorian Government's response to the Draft Report of the Productivity Commission's Inquiry into Australia's Maritime Logistics System

The Victorian government generally supports the findings and recommendations in the Productivity Commission's Draft Report into Australia's Maritime Logistics System. The draft report generally aligns with a range of key points from the Victorian Government's initial submission to the Inquiry. These views were also confirmed in the recently released Victorian Commercial Ports Strategy. The Strategy is attached to this response for further information.

In addition to Victoria's initial submission (attached) and the related actions set out in the Victorian Commercial Ports Strategy, Victoria wishes to provide the following further responses to relevant key findings and recommendations from the Productivity Commission's draft report:

### **1. The performance of Australia's container ports (draft finding 3.3)**

- Victoria agrees that a stronger national performance framework will help improve port performance.
- A national performance framework, developed collaboratively between the Commonwealth and the states and territories, that establishes benchmarks of port performance relative to relevant international examples would be a useful tool to guide planning and decision making for the container logistics supply chain.
- Victoria supports benchmarking being undertaken by BITRE to extend existing performance monitoring and participating in any national working groups or forums.

### **2. Repeal of Part X of the Competition and Consumer Act 2010 (draft recommendation 6.1)**

- The draft report recommends that the Australian Government repeal Part X of the Competition and Consumer Act 2010 (Cth)(CCA).
- Victoria supports this recommendation and agrees that a transparent net public benefit test of shipping line agreements would ensure that exporters and importers are exposed to fair and competitive market conditions. However, further consideration of the mechanism used to achieve this should occur (i.e., through a class exemption or use of Part VII of the CCA).
- Victoria agrees that any replacement of the Part X arrangements should still allow for shipping lines to share services to support maximum access to international markets.

### **3. Removal of the exemption for shipping line contracts from the unfair terms conditions in Australian consumer law (draft recommendation 6.3)**

- Victoria supports the recommendation that shipping contracts no longer be exempt from the unfair terms provisions in Australian Consumer Law and that the Australian Government should remove this exemption.
- Current arrangements allow unfair detention practices of shipping lines including the levying of high fees and charges on transport operators with little ability to recover costs. Transport companies are currently paying detention fees even when late dehire is being caused by supply chain disruptions, for example, vessels arriving late or off window.
- Victoria recognises that shipping lines should be able to encourage the timely return of containers, however, it considers the ability to charge these fees to be unreasonably broad.

- Victoria supports the Australian Competition and Consumer Commission being asked to undertake work on how best to implement recommendations 6.1 and 6.2.
- 4. Regulation of terminal access charges and other fixed fees for delivering or collecting containers from terminals so they can only be charged to shipping lines (draft recommendation 6.2)**
- Victoria notes the Productivity Commission’s findings regarding terminal access charges. As expressed in our original submission, Victoria implemented a Voluntary Pricing Protocol in 2020. The protocol seeks to improve the transparency of prices charged by container terminal operators to landside transport operators and ensure advanced notice, justification for changes, and an opportunity for industry to respond is provided. Victoria is committed to continue implementation of the Pricing Protocol whilst monitoring arrangements between industry participants.
  - A voluntary model that is consistent with Victoria’s Protocol has also since been developed by the National Transport Commission.
  - Victoria is keen to continue working with the Commonwealth to investigate the issues and options available to manage terminal access charges levied by container stevedore operators on landside transport operators.
  - Victoria’s review of Terminal Access Charges, like the Commission’s review, found that charges are being levied on transport companies which have no alternative to avoid or reduce these charges. However, Victoria’s review also found that there was no evidence that Stevedores were over-recovering the reasonable costs of their infrastructure and operations.
  - Rather than regulation, Victoria recommends building on the voluntary model that is being rolled out nationally. It may be possible to further strengthen the voluntary model through incorporating a regular review that tests the level of stevedore charges to landside operators to ensure they remain fair and reasonable.
  - A reasonable next step in considering this proposal would be for the ACCC to also look at this issue alongside the repeal of Part X and removal of the exemption under consumer law and to work across all jurisdictions to agree a national implementation plan.
- 5. Development of a port community system (draft finding 11.2)**
- The draft report found that implementing a government-run port community system may add administrative costs for users and that Government should work towards seamless interfaces between customs and biosecurity systems and leave development of ‘community systems’ to private port operators.
  - Victoria is considering a role in development of ‘community systems’ given the need for these systems to offer fair and equal access for all industry participants regardless of any commercial relationships or other arrangement.
  - As set out in the recently released Victorian Commercial Ports Strategy, Victoria supports further investigation of the potential for a new open access port/freight community system to facilitate greater transparency and efficiency in the management of container (and other) freight in Australia.
  - Whilst the private sector has a lot of experience in this area, to achieve an open-access platform for all participants a certain level of confidence in the port community system operator is necessary to handle confidential and commercially sensitive information.
  - Previous investigations by other jurisdictions, such as Queensland, found that privately held port community system concepts did not yield the industry support necessary for successful implementation. A government-led initiative may prove more successful.

- Victoria would welcome further discussion with the Commission on this finding as part of the final report preparations.

**6. Investment in rail infrastructure (draft finding 7.2)**

- The draft report found that most container ports are planning substantial investment in rail infrastructure despite low rail market share. While the draft report reflects the nonmarket benefits of rail, such as reduced road congestion and fewer carbon emissions, it questions whether the increased use of rail leads to significant, and possibly uneconomic, investment.
- Victoria supports the development of rail capacity to and from our ports. Victoria will continue to invest in building rail market share and delivering rail projects, including the Port Rail Shuttle Network with the Commonwealth, in line with the Victorian Commercial Ports Strategy, as well as ensuring freight from Inland Rail stays on trains all the way to the Port of Melbourne with investment in the Western Interstate Freight Terminal (WIFT) in Truganina.
- Any Government investment to develop rail is always carefully assessed against the expected capacity requirements from future trade growth, externality benefits and costs, and the balance of access needs for both passenger and freight services. The Victorian Government recognises the broader, triple bottom line benefits of growing freight using rail extend beyond the immediate commercial benefits of growing efficiency and productivity.
- Victoria is also investing in projects that will improve the productivity of road freight transport such as the North-East Link in Melbourne, which will remain a critical freight transport mode if forecast volumes are to be achieved.
- Victoria highlights that meeting future capacity, productivity and efficiency needs will require balanced investment and commitment in *both* road and rail initiatives.