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Committee Secretary
Legislative Council Select Committee
Parliament of Victoria
Parliament House
Victoria

By email to: LCSC@parliament.vic.gov.au

Supplementary Submission to Select Committee Inquiry into the proposed lease of the Port of Melbourne as contemplated by the Delivering Victorian Infrastructure (Port of Melbourne Lease Transaction) Bill 2015

References:

- A. SAL 15150 of 8 September 2015 – Submission to Select Committee
- B. POM Submission 8, September 2015
- C. Port Management Act 1995 (Vic) Pricing Order – Draft: 4 September 2015 (redacted)

Introduction

1. This supplementary submission is made at the request of the Select Committee who asked that I provide any update to Shipping Australia Limited's initial submission (Reference A) after having the opportunity to consider the information provided in the Government Submission (Reference B) and the draft initial pricing order (Reference C) which was supplied on request by Treasury on 15 September. There was a great deal of additional information in these references which did clarify some uncertainties, however it did not significantly vary opinions and recommendations. SAL's original submission (ref. A) remains substantially valid, and is modified by the additional comments below.

Comments

- 2. SAL agrees with the statement at Ref B para. 1.6.7. b.i and 2.11 that privatisation through the process of legislation is preferred over privatisation through contract as it provides certainty to both the potential lessee and the State.
- 3. **Protections against vertical integration.** The protections against vertical integration indicated in the Port Lease example at 10.2.1 exclude a stevedore from becoming the port lessee, however it is not clear whether there is ongoing protection against the port lessee may later becoming a stevedore. This would be of particular concern when a stevedore lease expires.
- 4. **Port of Melbourne ship size limitation.** Our over-riding concern remains that there is no long term plan to meet the requirement for larger ships. SAL was surprised to find that the entire Government submission (ref B), fails to address the serious matter that the Port of Melbourne is unable to accommodate the size of ships that are reasonably expected to want to

visit the port within the next 5 – 10 years. This matter has been completely ignored from the overview at para. 1.5.1, and 1.6.2, through the entire discussion on a second container port at section 4. The privatisation strategy and compensation regime (referred to as Port Growth Regime) omit the consideration of this crucial factor.

5. **Compensation Regime.** Ref B provides a deal of discussion on the compensation regime (referred to as the Port Growth Regime (PGR) but there is still insufficient detail. It is not referred to at ref C. It is not clear whether the Government investing in landside infrastructure to support a private port would trigger the compensation regime. It is also uncertain whether a ship which was too large to call at Melbourne would trigger compensation. SAL considers that Government's Port Growth Regime, will act as a clear disincentive for future Governments to invest in a new, deep-water port in a timely manner. The information provided in Ref B is insufficient to

6. **Price regulation regime.** SAL is encouraged by the level of price monitoring specified in ref B section 7 and ref C which is more comprehensive than that implemented in NSW, and Queensland. SAL is comfortable that the Government's statements of no increases to export container wharfage for 5 years and that increases in other port services will limited to CPI for 15 years are sufficiently supported by ref. C. However SAL remains concerned that:

- a. the exclusion of anchorages from prescribed services leaves this area open to unregulated price increases,
- b. according to ref C p.18, the Government's sunk costs of the Port Capacity Programme are to be added to the initial capital asset values (redacted from ref C page 9, thus increasing the quantum of the Aggregate Revenue Requirement,
- c. the Government's compensation regime (or PGR) is intended to provide certainty to bidders, primarily to increase the "sale" price of the port which will in turn increase the Aggregate Revenue Requirement and set higher price baselines than should be the case, and
- d. the restrictions on Government changes to the pricing order are considered too extreme, and
- e. The Tariff Adjustment Limit will cease to apply somewhere between 15 and 20 years after the commencement and subsequently higher rates of increase are likely.

7. **In relation to the exclusion of property rents** (ref. B, para 7.2.5) from the price regulation framework SAL accepts that this should be acceptable for existing leases which contain the protections of sub-paragraphs a-d of that paragraph. Also, the intended specification in the port lease (para.10.2.1) that leased land must only be used for port related uses, and specifically excludes non-port uses such as "hotels, residential developments, retail" will minimise the opportunity for excessive rent escalations. However, we remain concerned that where leases have expired there will still be a tendency and opportunity for uncontrolled step increases in port rents.

8. **Up-Front Capitalisation of Future PLF Revenue Stream.** No reference to the up-front capitalisation of PLF could be found in refs B or C. Our members remain concerned that such a course of action will come at a cost to port users over the long term.

Authorised by:
Rod Nairn, AM
Chief Executive Officer