



29/07/2021

C/21/22196

Mr Brendon Bourke – Chief Executive Officer

Port of Melbourne Operations Pty Ltd
Level 19, 839 Collins Street
Docklands VIC 3008

By email: Brendon.Bourke@portofmelbourne.com

Dear Mr Bourke

Pricing Order compliance review – commencement of inquiry and section 56 notice

Thank you for your letter dated 7 July 2021, received on 15 July 2021 for placing on the public record. The commission welcomes the commitment of the Port of Melbourne to meet the requirements of the notice issued under section 56 Port Management Act 1995 (PM Act) and to work constructively with the commission during this inquiry.

Information requirements for inquiry

The commission notes that the information required from the Port of Melbourne under the section 56 PM Act notice is consistent with the directions provided by the commission in its Statements of Regulatory Approach. These set out the commission's high level directions regarding its proposed approach to the performance of its regulatory role in relation to prescribed services provided at the port of Melbourne. Any modifications to the Statements of Regulatory Approach will be considered by the commission post this inquiry.

Scope of inquiry – consideration of information contained in the 2021-22 TCS submission

We note your request that all of the information in your Tariff Compliance Statement 2021-22 submission should be considered in this inquiry. If the commission considers that some or all this information is relevant, this will be considered in the inquiry.

We emphasise that the inquiry is backward looking. This will inquire into whether the Port of Melbourne has complied with the Pricing Order during the review period (being 1 July 2016 to 30 June 2021). The Tariff Compliance Statement 2021-22 proposes tariff arrangements for the regulatory period 1 July 2021 to 30 June 2022. This falls outside of the review period. We

recognise that the Statement proposes some material changes in approaches to setting prescribed service tariffs for this next regulatory period.

Timing and process for draft inquiry report

The commission is aware of its obligations to afford the Port of Melbourne procedural fairness in relation to any inquiry findings that might adversely affect the Port of Melbourne's interests.

Consistent with the requirements of s49J of the PM Act, we will provide the Port of Melbourne with a draft inquiry report, as well as a reasonable opportunity to make written submissions to the commission on the draft report before the commission prepares its final report.

We expect to provide the Port of Melbourne with a confidential draft report by 26 October 2021. We will provide three weeks for the Port of Melbourne to respond to this report. The commission would be prepared to consider a reasonable request for an extension of this time if the Port of Melbourne considers this necessary. These timelines have been proposed having regard to the limited timeframe provided in the PM Act to conduct and complete the inquiry.

We have established meetings between the Port of Melbourne and our consultants to discuss key issues and approaches to the inquiry. We intend, where relevant, to provide consultant draft reports or findings to the Port of Melbourne in advance of the draft inquiry report, with a reasonable opportunity to provide comments.

The commission will consider the Port of Melbourne's written submissions and proceed to issue a final inquiry report (both redacted and public versions) to the Assistant Treasurer by 31 December 2021. There will not be a further round of consultation with stakeholders after the Port of Melbourne's submission on the draft report. We may however engage with the Port of Melbourne on its submission if required to clarify any matters in that submission.

The processes the Assistant Treasurer is to follow after receiving the final report are set out in sections 45(4) to (6) of the Essential Services Commission Act 2001 (Vic) and sections 49K to 49M of the PM Act.

If you have any questions in relation to this matter, please contact Marcus Crudden at Marcus.Crudden@esc.vic.gov.au (cc transport@esc.vic.gov.au).

Kind regards



Dr John Hamill
Chief Executive Officer