

# 2022-23 Tariff Compliance Statement

## Appendix G

### Summary of consideration of stakeholder comments

31 May 2022

Port of Melbourne



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# 1 Overview

## 1.1 Pricing Order requirements

The Pricing Order sets out the following requirements for stakeholder engagement:

*7.1.2(d) The Tariff Compliance Statement must... set out the process by which the Port Licence Holder has effectively consulted and had regard to the comments provided by Port Users.*

## 1.2 Submissions received to 2022 Industry Consultation

Eight stakeholders made written submissions to the 2022 Industry Consultation.

Four stakeholders (IFCBAA, ANL, MUA, and VICT) used the Stakeholder Feedback Form from the 2022 Industry Consultation page on PoM's website or structured their submission by directly answering the questions in the Consultation Paper. Other stakeholders generally followed the layout and sequence of the topics in the Consultation Paper in providing their feedback. Most submissions covered all or close to all topics in the Consultation Paper.

Stakeholders were asked to advise if they would like all, or any part of, their written submission to be treated confidentially. No stakeholders made confidentiality claims or identified any confidential information in their submissions. Table 1 below lists the submissions received and issues raised.

**Table 1: Submissions received and topics raised**

Stakeholder	Confidentiality claims	Summary of topics raised
<b>International Forwarders &amp; Customs Brokers Association of Australia Ltd. (IFCBAA)</b>	None raised	<ul style="list-style-type: none"> <li>▪ Feedback on 2022 Industry Consultation Program</li> <li>▪ Engagement on port development</li> <li>▪ Performance data and metrics</li> <li>▪ Tariff reform</li> <li>▪ Depreciation</li> <li>▪ Length of regulatory period</li> <li>▪ Other – rail connectivity, capacity, large vessel capability important for competitiveness</li> </ul>
<b>Patrick</b>	None raised	<ul style="list-style-type: none"> <li>▪ Feedback on 2022 Industry Consultation Program</li> <li>▪ Engagement on port development</li> <li>▪ Performance data and metrics</li> <li>▪ Tariff reform</li> <li>▪ Depreciation</li> <li>▪ Length of regulatory period</li> </ul>
<b>ANL Container Line P/L (ANL)</b>	None raised	<ul style="list-style-type: none"> <li>▪ Feedback on 2022 Industry Consultation Program</li> <li>▪ Engagement on port development</li> <li>▪ Performance data and metrics</li> <li>▪ Tariff reform</li> <li>▪ Depreciation</li> <li>▪ Length of regulatory period</li> </ul>

Stakeholder	Confidentiality claims	Summary of topics raised
<b>DP World</b>	None raised	<ul style="list-style-type: none"> <li>▪ Feedback on 2022 Industry Consultation Program</li> <li>▪ Engagement on port development</li> <li>▪ Performance data and metrics</li> <li>▪ Tariff reform</li> <li>▪ Depreciation</li> <li>▪ Length of regulatory period</li> <li>▪ Other – Large vessel forecasts, timing of future capex, WACC, prudence and efficiency of capex, land rents</li> </ul>
<b>Maritime Union of Australia (MUA)</b>	None raised	<ul style="list-style-type: none"> <li>▪ Feedback on 2022 Industry Consultation Program</li> <li>▪ Engagement on port development</li> <li>▪ Performance data and metrics</li> <li>▪ Tariff reform</li> </ul>
<b>Security Consulting Group</b>	None raised	<ul style="list-style-type: none"> <li>▪ Other – marketing material</li> </ul>
<b>Victorian International Container Terminal (VICT)</b>	None raised	<ul style="list-style-type: none"> <li>▪ Feedback on 2022 Industry Consultation Program</li> <li>▪ Engagement on port development</li> <li>▪ Performance data and metrics</li> <li>▪ Tariff reform</li> <li>▪ Length of regulatory period</li> </ul>
<b>Tasmanian Minerals, Manufacturing and Energy Council (TMEC)</b>	None raised	<ul style="list-style-type: none"> <li>▪ Performance data and metrics</li> <li>▪ Tariffs</li> </ul>

## 2 Summary of consideration of stakeholder comments

### 2.1 What we heard and how we have had regard to comments

The table below provides a summary of the comments received in written submissions and how we have had regard to those comments, including where we have made decisions in this TCS on the topics and where further engagement is proposed.

In addition to the information published in this TCS, PoM will directly notify all participants in the online forums, those who attended one-on-one meetings, and those that made written submissions about the outcomes of our engagement, via notification of the release of this TCS and with individual responses to parties that made written submissions.

All submissions provided to PoM have been provided to the ESC.

**Table 2: Summary of submissions to the 2022 Industry Consultation and how PoM has had regard to comments**

Topic/Stakeholder	Comments from stakeholders	How PoM has had regard to comments
<b>Feedback on 2022 Industry Consultation Program</b>		
IFCBAA	<ul style="list-style-type: none"> <li>The Industry Consultation program timing, information provided and the online sessions, one of one meeting and written submissions provides industry lots of opportunities to participate (p.2)</li> <li>The Consultation Paper provides good level of information about the overall Port Development Strategy and regulatory framework (p.2)</li> </ul>	<ul style="list-style-type: none"> <li>We note the comments from IFCBAA and will have regard to these comments in the design and delivery of future engagement, including by providing materials in advance and offering a variety of channels to participate.</li> </ul>
ANL	<ul style="list-style-type: none"> <li>PoM's 2022 Industry Consultation program was well managed and well presented. The timing of the program and the opportunity to participate was appropriate. The level of information was relevant to our industry and our business needs. The form of engagement, being both in-person and virtual, is appropriate and opens the engagement to a broader audience within ANL. (p.2)</li> <li>The consultation paper is very useful as it explains well the purpose and structure of the engagement. Furthermore, the paper provides detailed background material that outlines the port's current and future developments and initiatives, which are very relevant to our business i.e. future plans for bigger ships and container and landside capacity development, as well as the structure of the tariffs and</li> </ul>	<ul style="list-style-type: none"> <li>PoM notes the comments from ANL and will have regard to these comments in the design and delivery of future engagement, including by providing materials in advance and offering a variety of channels to participate.</li> <li>PoM will engage further with ANL to provide more information about its sustainability strategy.</li> </ul>

Topic/Stakeholder	Comments from stakeholders	How PoM has had regard to comments
	<p>associated matters such as deferred depreciation. As a supplement to the Consultation session itself it is well received. (p.2)</p> <ul style="list-style-type: none"> <li>▪ ANL would like to understand more about PoM’s sustainability strategy and developments. (p.2)</li> </ul>	
Patrick	<ul style="list-style-type: none"> <li>▪ Patrick consider that there would be merit in PoM publishing a statement outlining PoM’s approach to future consultation, and outlines seven matters that the consultation statement should set out, being (pp.6-7): <ul style="list-style-type: none"> <li>a) a recognised consultation standard or framework that PoM will adhere to;</li> <li>b) who PoM will consult and at what stage (eg: planning, decision making) for each subject matter area where PoM is required to consult;</li> <li>c) reasonable timeframes for consultation and for stakeholders to consider and respond to supporting information;</li> <li>d) how PoM will use confidential information to inform its decision making, including a clear statement that where an operator wants PoM to rely on that operator’s development or other commercially sensitive plans to inform PoM’s investment decision (eg: timing or scope), that the operator will need to agree for high level information (eg: timing and capacity) to be provided to industry;</li> <li>e) how feedback will be used by PoM to inform decision making (confidential and non-confidential), including providing some level of visibility to stakeholders about how feedback was adopted or disregarded;</li> <li>f) agreed minimum supporting information which will be provided (see further comments about key capacity expansion projects below);</li> <li>g) a commitment that consultation will meet this standard moving forward.</li> </ul> </li> <li>▪ Commentary on how PoM should use confidential information, including that if a stakeholder wants PoM to rely on its information,</li> </ul>	<ul style="list-style-type: none"> <li>▪ We note that Patrick refers to regulatory and industry guidance on consultation practices, and has suggested that PoM publish a statement outlining its approach to future consultation.</li> <li>▪ The Undertaking prepared by PoM outlines PoM’s commitment to develop and publish a Pricing Order Engagement Protocol that will, amongst other general internal process initiatives, improve PoM’s engagement practices under the Pricing Order. A draft Pricing Order Engagement Protocol will be provided to the Minister for Ports and Freight by no later than 3 months after the Undertaking has been signed. PoM will take into account all feedback received from the Minister for Ports and Freight on the draft Pricing Order Engagement Protocol and will by no later than 3 months after all feedback is received from the Minister publish a final Pricing Order Engagement Protocol.</li> <li>▪ Clause 13 of the Undertaking sets out the matters for inclusion in the Pricing Order Engagement Protocol, which we consider are consistent with the matters identified by Patrick in its submission (i.e. matters 2(a) to 2(g) in the Appendix to Patrick’s submission).</li> <li>▪ We note Patrick’s comments on the treatment of confidential information. Treatment of confidential information is not explicitly set out in the Undertaking. We will consider options for including guidance on this matter through the Pricing Order Engagement Protocol. For example, where stakeholders request that PoM rely on their confidential information we may work with those stakeholders to seek agreement on the provision of the information or a high-level summary to the industry.</li> <li>▪ Patrick’s submission, like all submissions provided to PoM, has been provided to the ESC along with this document explaining how we have taken into account Patrick’s views.</li> </ul>

Topic/Stakeholder	Comments from stakeholders	How PoM has had regard to comments
	<p>then it should agree for 'high level' information to be provided to the industry (p.7)</p> <ul style="list-style-type: none"> <li>▪ Includes a formal request that Patrick's feedback be included in PoM's 2022-23 TCS for the purposes of PoM providing a summary of Patrick's feedback and explaining how PoM has taken into account Patrick's views (p.2).</li> </ul>	
DP World	<ul style="list-style-type: none"> <li>▪ The scope of the consultation appears to be very broad and extend well outside the scope of a TCS process, which is focused on PoM demonstrating its compliance with the Pricing Order (p.2)</li> <li>▪ A number of the topics are substantial and warrant separate and more detailed analysis in a 'standalone' consultation process involving port stakeholders (e.g. approach to capital planning decisions) (p.2)</li> <li>▪ The consultation paper canvasses issues or debates that are currently before the Productivity Commission (PC) and ESC (e.g. assessing and investing in capacity) – and those other processes should be left to do their work (p.2)</li> <li>▪ The TCS consultation paper, like other recent consultations, suggests PoM is being disproportionately influenced by the interests and priorities of shipping lines. There is a clear incentive for shipping lines to encourage investment in as much capacity, as quickly as possible, at any cost (p.2)</li> </ul>	<ul style="list-style-type: none"> <li>▪ We note DPWA's feedback on the scope of the consultation. The Consultation Paper describes the purpose of the engagement and how it will be used by PoM: <ul style="list-style-type: none"> <li>– In relation to the approach to capital planning decisions, the Consultation Paper makes clear that the purpose is to consult stakeholders about our approach to engagement on port development, and that we will use feedback from stakeholders to design our engagement strategy and approach for port development in the coming months, with the expectation that we will commence engagement with port users and other stakeholders in mid-2022.</li> <li>– In relation to the Productivity Commission Inquiry and the ESC's investigation into the prudence and efficiency of the Webb Dock East Berth Extension, the outcomes of these reviews will be considered by PoM as required, however we do not consider that these reviews detract from the requirement for PoM to consult with its stakeholders on matters such as the approach to capital planning, assessing and investing in capacity.</li> </ul> </li> <li>▪ PoM regularly consults with a diverse group of stakeholders including Port Users and is aware that each stakeholder will have its own commercial incentives that must be balanced by PoM in making decisions consistent with its obligations under the Port Lease and Pricing Order.</li> </ul>
MUA	<ul style="list-style-type: none"> <li>▪ MUA would like to see more detail on: <ul style="list-style-type: none"> <li>– Port TEU capacity, current and forecast</li> <li>– Container (TEU) demand, actual and forecast</li> <li>– Vessel fleet forecasts (by TEU capacity), LOA and keel/air draught and vessel number/scheduling trends</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ We welcome the MUA's views on matters it would like to see more detail on, and note that they are consistent with the matters that we identified would form part of our engagement on port development, which we plan to review and refresh this year.</li> </ul>

Topic/Stakeholder	Comments from stakeholders	How PoM has had regard to comments
VICT	<ul style="list-style-type: none"> <li>▪ VICT has had sufficient opportunity and time to engage with PoM.</li> <li>▪ There has been sufficient level of information provided in the Port Development Strategy, Monthly reports and the Industry Consultation Paper. In addition to this, VICT can easily access the PoM team to address questions or concerns.</li> <li>▪ Consultation Paper is very detailed and allows members to easily read and understand the process but also allow it to be used as a basis for questioning PoM.</li> </ul>	<ul style="list-style-type: none"> <li>▪ We note the comments from VICT and will have regard to these comments in the design and delivery of future engagement, including by providing materials in advance and offering a variety of channels to participate.</li> </ul>
<b>Engagement on Port Development</b>		
IFCBAA	<ul style="list-style-type: none"> <li>▪ PoM should give priority to short and medium term developments including delivery and execution (p.2)</li> <li>▪ Run industry stakeholder sessions to keep stakeholders informed of the short, medium and long term plans and explain how these developments will benefit them (p.2)</li> <li>▪ PDS Delivery Program provides sufficient detail on PoM’s investment pipeline. Changes to the program delivery time frame should be communicated to the industry (p.2)</li> </ul>	<ul style="list-style-type: none"> <li>▪ We welcome the IFCBAA’s suggestions on matters to be included in our engagement on capital planning and port development. We agree in principle with the key matters identified by the IFCBAA. These matters will form part of our approach to consulting on port development, which we plan to review and refresh this year.</li> <li>▪ Having regard to stakeholder feedback on updates to the PDS Delivery Program, PoM’s position is that we should update it at least every 12-18 months, or when there are material changes in the nature and/or timing of key projects.</li> </ul>
ANL	<ul style="list-style-type: none"> <li>▪ PoM should give priority to global developments such as the IMO requirements. (p.2)</li> <li>▪ Any plans that will or are likely to have a material impact on broader port operations, quayline, terminal or landside capacity, should be included in PoM’s engagement. (p.2)</li> <li>▪ Stevedores have committed to transparency of pricing under the Voluntary Pricing Protocol. Performance data and metrics is a positive step. (p.2)</li> <li>▪ The PDS Delivery Program provides a good overview of the pipeline and the linkages between each project. Suggest sharing with stakeholders upon changes to the Project/s or the timing. (p.3)</li> </ul>	<ul style="list-style-type: none"> <li>▪ We welcome ANL’s suggestions on matters to be included in our engagement on capital planning and port development. We agree in principle with the key matters identified by ANL. These matters will form part of our approach to consulting on port development, which we plan to review and refresh this year.</li> <li>▪ Having regard to stakeholder feedback on updates to the PDS Delivery Program, PoM’s position is that we should update it at least every 12-18 months, or when there are material changes in the nature and/or timing of key projects.</li> </ul>
Patrick	<ul style="list-style-type: none"> <li>▪ Patrick considers that there would be merit in PoM publishing a statement outlining PoM’s approach to demonstrating that capital expenditure for material port capacity investment is prudent and</li> </ul>	<ul style="list-style-type: none"> <li>▪ As noted in the Consultation Paper, we are consulting with Port Users on their preferences for how we engage on our capital planning and port development and will take feedback received into account when designing our approach to</li> </ul>



Topic/Stakeholder	Comments from stakeholders	How PoM has had regard to comments
	<p>efficient. Patrick considers that a port development review framework should set out (pp.7-9):</p> <ul style="list-style-type: none"> <li>a) a commitment that consultation for key capacity expansion project investment decisions will be carried out in line with PoM's consultation statement;</li> <li>b) how stakeholders can provide input into capacity development planning and decision making processes;</li> <li>c) agreed minimum supporting information which will be provided including: <ul style="list-style-type: none"> <li>o publication of PoM's 10-year demand forecasts, including explanation of any material changes to assumptions or methodology over time;</li> <li>o independent capacity analysis to determine the current port capacity and capacity increment expected from key capacity expansion projects, their relationship to the likely demand for capacity and the impacts on capacity utilisation at each of Webb Dock and Swanson Dock;</li> <li>o where PoM engages a third party consultant to conduct capacity analysis, a peer review of the modelling by the university sector (as is consistent with past practice) or a third party body (eg: Infrastructure Victoria) be provided;</li> <li>o forecast of vessels size mix, trade volumes and the number of ship visits under alternative relevant scenarios relating to the choice and timing of key capacity expansion projects. This would include a full analysis of how the vessels size mix can be expected to respond to different port terminal constraints and the nature and extent of cascading of vessels from the world market;</li> <li>o full details of the feasible key capacity expansion projects, including the further development of Webb Dock and lower cost capacity options for large vessels (including obtaining approvals for larger vessels at the Swanson Dock terminals and consideration of individual operators' development</li> </ul> </li> </ul>	<p>engagement on port development, which we plan to review and refresh this year.</p> <ul style="list-style-type: none"> <li>▪ We welcome Patrick's suggestions on matters to be included in our engagement on capital planning and port development. We agree in principle with the key matters identified by Patrick that should be included when engaging on material port capacity investments, which relate to analysis of, and consultation on, demand, fleet forecasts, capacity and investment options. These matters will form part of our approach to consulting on port development, which will be consistent with the Pricing Order Engagement Protocol as defined in the Undertaking.</li> </ul>

Topic/Stakeholder	Comments from stakeholders	How PoM has had regard to comments
	<p>plans (noting feedback provided about confidentiality matters)). For each option, details of:</p> <ul style="list-style-type: none"> <li>▪ the design and costing;</li> <li>▪ the estimated addition to terminal container handling capacity (including the basis for the forecast service performance outcomes);</li> <li>▪ time-to-construct, and details of any alternatives for sequencing of works;</li> </ul> <ul style="list-style-type: none"> <li>○ similar details in relation to key interface projects, including the Webb Dock Freight Link.</li> <li>○ capacity modelling to show the vessel delay times under alternative scenarios for the timing of key capacity expansion projects and implementation of alternative options which could reduce any congestion issues (for example: stevedore deploying further equipment, reassessing customer book, improving productivity);</li> <li>○ detailed analysis of the impacts on the supply chain of the different scenarios, including supply chain impacts of large vessels and forecast speed and nature of vessel cascade to Australian trades;</li> </ul> <p>d) principles governing the processes for allocating new terminal leases;</p> <p>e) principles governing the trigger points for progressing key capacity expansion projects and a commitment to notify industry about changes in status;</p> <p>f) an evaluation framework (e.g. cost-benefit analysis or multi-criteria analysis) for choosing the preferred sequence and timing of capital works. This might be based on whole-of-port or whole-of-supply chain efficiency criteria.</p> <p>g) a commitment that actual and forecast capital expenditure for material port capacity investment will meet this standard moving forward.</p>	

Topic/Stakeholder	Comments from stakeholders	How PoM has had regard to comments
Patrick	<ul style="list-style-type: none"> <li>▪ Patrick requests that PoM formally conclude engagement with stakeholders on port capacity modelling and detailed fleet forecasts should be provided to stakeholders (p.24)</li> </ul>	<ul style="list-style-type: none"> <li>▪ As Patrick is aware, PoM has previously had work undertaken to determine current and forecast capacity at each of the ICTs and the Port overall. This included a validation exercise with each of the ICTs to confirm the accuracy of estimates current capacity and appropriateness of the modelling approach for estimating future capacity as conditions evolve. This process included testing a range of sensitivities requested by the ICT operators. Three workshops were held with each ICT operator.</li> <li>▪ We agree with Patrick’s suggestion to provide fleet forecasts to stakeholders, which we consider to form part of our ongoing engagement on port capacity. As noted in our Consultation Paper, we intend to consult on key inputs to port capacity planning (e.g. forecasts of demand, vessel fleet and port capacity) this year.</li> </ul>
Patrick	<ul style="list-style-type: none"> <li>▪ PoM has sought feedback on how commercially sensitive data from stevedores on terminal capacity should be managed. It is important to distinguish between the detailed data provided by terminal operator and the output of the capacity modelling. Stakeholders will have confidence in the agreed inputs, assumptions and methodology used by PoM to carry out capacity modelling where the approach has been developed through consultation with terminal operators. Concerns about confidentiality are limited to the detailed data provided by terminal operators, not the output of the capacity modelling. It is not clear to Patrick that there would ever be a need for detailed data of terminal operators to be published in order to provide insights into PoM’s capacity modelling. (p.10)</li> </ul>	<ul style="list-style-type: none"> <li>▪ We note Patrick’s comments that engagement on port capacity should relate to the outputs of port capacity modelling and that terminal operator data should not need to be shared in order to provide insights into PoM’s capacity modelling. These comments will be taken into account as we design our approach to engagement on port development, which we plan to review and refresh this year. Given the sensitivities of the market regarding input assumptions, PoM will need to further consider the dependency of the overall capacity assumptions to the operating assumptions of each terminal and what can be shared to alleviate anecdotal debate.</li> </ul>
Patrick	<ul style="list-style-type: none"> <li>▪ Patrick suggests the following for the PDS Delivery Program (p.10): <ul style="list-style-type: none"> <li>– It should be updated more frequently than every 12-18 months</li> <li>– Triggers for commencement of different phases for projects should be provided</li> <li>– Clearer indicative timing for the different phases and delivery of capacity should be provided</li> <li>– Further detail about how the project delivers on the identified service standards and project objectives</li> <li>– Suggest a review of relevant stakeholder interests.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ We appreciate Patrick’s commentary on opportunities for improvement for the PDS Delivery Program, and will include these amendments in its next iteration. In terms of updates to the PDS Delivery Program, our position is to update it every 12-18 months, or when there are material changes in the nature and/or timing of key projects (or their related assumptions). More frequent updates could be considered in exceptional circumstances, however our initial view is that a high frequency of updates would potentially lead to uncertainty about the reliability of the information in the document.</li> </ul>

Topic/Stakeholder	Comments from stakeholders	How PoM has had regard to comments
DP World	<ul style="list-style-type: none"> <li>▪ The consultation paper does little to assist stakeholders in understanding the approach which PoM intends to take to development. (p.9)</li> <li>▪ Consultation on future development – including in relation to the timing of any Webb Dock North development – must involve PoM publishing detailed evidence and analysis of (p.9):               <ul style="list-style-type: none"> <li>– the objectives and thresholds that PoM considers justify the development;</li> <li>– detailed demand forecasts over the next decade, and the basis for those forecasts;</li> <li>– detailed capacity utilisation forecasts that underlie its planning (both now and associated with any capital investment) and the assumptions on which this capacity has been based – e.g. any assumptions regarding terminal productivity.</li> <li>– any justification associated with ‘large vessels’ that is intended to support expansion ahead of container volume growth – including detailed and expert support for such views; and –</li> <li>– the various options and alternatives that have been considered (both alternative opex and capex options – and the implications of ‘do nothing’), including the different costs associated with those alternatives; and</li> <li>– all costs upon which it evaluates prudence of the investment – including the costs and risks of stranded investment in Swanson Dock terminals.</li> <li>– price and service outcomes upon which it evaluates prudence of investments (p.11)</li> </ul> </li> <li>▪ Both the PDS and the PDS Delivery Program are high level documents that do not satisfy these requirements. (p.9)</li> <li>▪ Large vessels – DP World sets out:               <ul style="list-style-type: none"> <li>– a range of views on larger vessels, noting that it “rejects the ‘growth in large vessel’ assumption that, in recent times, has come to be PoM’s primary justification for further investment in additional capacity – both at VICT and Webb Dock North.” (p.12).</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ PoM is consulting on its approach to engaging on development, as such we welcome DP World’s views on how we should undertake that engagement and we will consider this feedback in the design of our future consultation programs, including in relation to the timing of future container capacity.</li> <li>▪ We welcome DP World’s views on larger vessels and options to cater for larger vessels, although would like to clarify that ‘growth in larger vessels’ has not been proposed by PoM as the primary justification for investment in capacity at Webb Dock North – further information on the drivers is available in the PDS and PDS Delivery Program. PoM is consulting on its approach to engaging on development, including on the need for, and approach to, delivering the next tranche of container capacity at the port. This consultation program will allow DP World to engage on the key inputs to these decisions and options for addressing the needs of the port.</li> </ul>

Topic/Stakeholder	Comments from stakeholders	How PoM has had regard to comments
	<ul style="list-style-type: none"> <li>– various alternatives to additional capacity investment – to efficiently cater for large vessels (e.g. widening the swing basin, easing operating restrictions) (p.15)</li> </ul>	
MUA	<ul style="list-style-type: none"> <li>▪ MUA considers PoM’s view of its obligations under the Port Lease is narrow, and should include:               <ul style="list-style-type: none"> <li>– Reference to the requirements of s.48 of the PMA (p.4)</li> <li>– PoM’s obligations under a range of international human rights instruments such as the United Nations Guiding Principles on Business and Human Rights (pp.4-5)</li> </ul> </li> <li>▪ MUA suggests the adoption of a voluntary code agreed by all PoM terminal operators.(p.5)</li> <li>▪ The main concern the MUA has with the PDS Delivery Program is that it does not address workforce impacts. The MUA urges PoM to work with stakeholders to develop a workforce impact statement for new investments</li> <li>▪ The MUA suggests a tailored mechanism to ensure that port users’ development plans are integrated with PoM investment plans, and in particular that (i) workforce impacts; and (ii) the technology question, be addressed as part of each new investment.</li> </ul>	<ul style="list-style-type: none"> <li>▪ For the avoidance of doubt, PoM does not have a role in administering s.48 of the PMA, but where required to do so makes relevant decisions consistently with those objectives.</li> <li>▪ We also recognise MUA’s views on human rights, and will have regard to these comments as we continue to develop our sustainability practice. For example, PoM prepares an annual Modern Slavery Statement in accordance with the requirements of the Modern Slavery Act 2018 (Cth)</li> <li>▪ PoM welcomes continued engagement with the MUA on its proposed code for stevedores, although we note our initial observation that the development of such a code is likely to fall outside PoM’s remit and responsibilities.</li> <li>▪ As noted in our Consultation Paper, we intend to seek views from Port Users about their development plans when developing our investment plans.</li> </ul>
VICT	<ul style="list-style-type: none"> <li>▪ PoM should prioritise the current lack of capacity at the Port of Melbourne and costs that the shippings lines are experiencing which eventually come back to the consumers.</li> <li>▪ The PDS Delivery Program provides sufficient detail, especially with the graph that provides the current projects along with the progress.</li> <li>▪ VICT would appreciate if there can be additional focus in line with the Australia and Victoria Infrastructure Priority Lists for rail and larger vessels.</li> </ul>	<ul style="list-style-type: none"> <li>▪ We welcome VICT’s suggestions on matters to be included in our engagement on capital planning and port development. We agree in principle with the key matters identified by VICT. These matters will form part of our approach to consulting on port development, which we plan to review and refresh this year.</li> </ul>
TMEC	<ul style="list-style-type: none"> <li>▪ TMEC requested that Tasmanian exporters be updated on the proposed relocation of SeaRoad and Toll from Webb Dock to Swanson dock including:               <ul style="list-style-type: none"> <li>– A) timeframes to achieve; and</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ We note TMEC’s request for engagement on these issues, which will form part of the design our approach to engagement on port development, which we plan to review and refresh this year. We will continue to engage with TMEC on these issues during this consultation process.</li> </ul>

Topic/Stakeholder	Comments from stakeholders	How PoM has had regard to comments
	<ul style="list-style-type: none"> <li>– B) the strategies that will be implemented to ensure little or no disruption to freight movements (including domestic freight and transshipping) during this repositioning (p.1)</li> </ul>	
<b>Performance data and metrics</b>		
IFCBAA	<ul style="list-style-type: none"> <li>▪ There is value in PoM publishing the proposed metrics, as long as the data can be used by industry and stevedores to monitor and improve performance (p.3)</li> <li>▪ From a shipper and forwarder perspective terminal productivity is important to be measured and reported to hold the stevedores accountable to improve performance and benchmark against other Australian ports (p.3)</li> <li>▪ IFCBAA agrees that it is important to provide context. This could be achieved by sharing the performance data with key port users, to allow them to provide any contextual information (p.3)</li> <li>▪ Timing of reporting can align with the ACCC annual Stevedoring Monitoring Report (p.3)</li> </ul>	<ul style="list-style-type: none"> <li>▪ We welcome the IFCBAA’s views on publishing performance metrics and data, and continue to hold the view that there will be benefits to the industry in us doing so.</li> <li>▪ Noting the concerns raised by some stakeholders, we propose to continue to engage with stakeholders on identifying and reporting on performance data and metrics they value, how they should be calculated and the approach to publishing any such metrics. We look forward to the IFCBAA’s participation in this process.</li> </ul>
ANL	<ul style="list-style-type: none"> <li>▪ There is value in publishing the performance data (monthly), with a preference for both terminal and whole of port level as each stevedore differs in their processes, capacities and operations. (p.3)</li> <li>▪ The accepted global industry standard for berth utilisation is 65% as ‘optimal working capacity’, with anything above 65% being sub-optimal. Quayline productivity will vary between terminals, depending on the terminal operating mode and volume. Lifts per hour would need to be reported on a Gross level i.e. without excluding any delays, to be relevant. (p.3)</li> <li>▪ PoM should provide context with an explanation of accepted global industry standards and how PoM and its stevedores compare to like for like terminals. For example, DPWA and Patrick are manual straddle operations. What is considered ‘world class’ for such an operation and how do they compare to their peers. (p.3)</li> </ul>	<ul style="list-style-type: none"> <li>▪ We welcome ANL’s views on publishing performance metrics and data, and continue to hold the view that there will be benefits to the industry in us doing so.</li> <li>▪ Noting the concerns raised by some Port Users, we propose to continue to engage with stakeholders on identifying and reporting on performance data and metrics they value, how they should be calculated and the approach to publishing any such metrics. We look forward to ANL’s participation in this process.</li> </ul>
Patrick	<ul style="list-style-type: none"> <li>▪ Patrick submitted that PoM should not publish performance metrics in the 2022-23 TCS as the time period and level of consultation is</li> </ul>	<ul style="list-style-type: none"> <li>▪ Noting the concerns raised by Patrick, we propose to continue to engage with stakeholders on identifying and reporting on performance data and metrics</li> </ul>

Topic/Stakeholder	Comments from stakeholders	How PoM has had regard to comments
	<p>insufficient to address the range of issues which require input from stakeholders. (p.25)</p> <ul style="list-style-type: none"> <li>▪ If PoM does intend to proceed with publication of performance metrics in the 2022-23 TCS, detailed engagement will be required on the metrics and benchmarks, and the methodology and definitions underpinning the proposed metrics and benchmarks in line with industry feedback. (p.25)</li> <li>▪ Patrick considers that annual port wide metrics are more appropriate than monthly by terminal – any performance metrics published should be on a port wide basis and published annually. (p.25)</li> <li>▪ Patrick’s feedback on the benchmarks proposed by PoM was as follows (p.17): <ul style="list-style-type: none"> <li>– Berth Utilisation – at a high level, Patrick agrees with Drewry’s view that once 65% berth utilisation is exceeded, ship queuing increases and service quality may drop. In practice, regard must be had to the relative berth utilisation benchmark for each individual terminal operator by reference to their national planning capabilities (providing practical opportunity for an additional margin to be added on top of the 65% benchmark). Patrick therefore consider 65% as a minimum benchmark.</li> <li>– Terminal Productivity – PoM acknowledges that BMPH is for the most part a commercial issue between stevedores and shipping lines and no benchmark should be reported for this measure</li> <li>– Quayline Productivity - Consistent with information from the United Nations, Patrick propose that a throughput of 1500 TEU per metre of quay line is the objective</li> </ul> </li> <li>▪ Patrick recommended a number of improvements to presentation of vessel data. Publication of vessel size data should not be framed as performance data or metrics, but rather relevant supporting information for capacity investment decisions and should provide better insights into factors influencing decision making including: <ul style="list-style-type: none"> <li>– further granularity of vessel classes such as 300-320m, 320-337m and 337-367m (the maximum vessel size that can call Port of Melbourne)</li> </ul> </li> </ul>	<p>they value, how they should be calculated and the approach to publishing any such metrics. We look forward to Patrick’s participation in this process.</p> <ul style="list-style-type: none"> <li>▪ We will also have regard to any findings and/or recommendations coming out of the Productivity Commission’s inquiry and the implications for whether and how PoM should publish data.</li> <li>▪ We appreciate Patrick’s consideration of the issues and the initial views provided by Patrick in relation to the proposed performance data and metrics, how they should be calculated and recommendations on reporting, and will take these into account in future consideration of these matters.</li> <li>▪ On the question of the publication of port-wide versus terminal-specific data, the basis for Patrick’s objection to the publication of terminal-specific data remains unclear. For example: <ul style="list-style-type: none"> <li>– In relation to berth utilisation, Patrick notes that “berth utilisation is not necessarily an appropriate indicator of the need for further capacity investment by PoM given yard and equipment could be the constraining factor. In fact, Patrick expects that for both DP World and Patrick the constraining capacity factor is likely to be the yard and for VICT it is equipment” (p.14). In PoM’s view, Patrick’s assertion about the potential for differing constraints at each terminal highlights the benefits of publishing data on a terminal-specific basis.</li> <li>– In relation to quay line productivity, Patrick notes that the purpose of this metric is “to assess whether there are sufficient berths and whether those berths are being utilised appropriately” (p.14). In PoM’s view, it is appropriate to undertake this assessment on a terminal-specific basis.</li> <li>– With regard to stakeholder views that terminal specific data would promote competition, Patrick appears to disagree, and submits that “Terminal operators are highly incentivised to operate at their most efficient level and to differentiate commercially based on performance (both quayside and landside)” (p.14). However, we consider that this assertion supports the views from other stakeholders that publishing terminal-specific data would promote competition by allowing the performance of the different terminals to be more clearly differentiated.</li> </ul> </li> </ul>

Topic/Stakeholder	Comments from stakeholders	How PoM has had regard to comments
	<ul style="list-style-type: none"> <li>– proportion of actual and forecast vessel visits to Port of Melbourne that can call at each terminal;</li> <li>– the practical limit of around 14,000 TEU at the Port of Melbourne. (p.25).</li> </ul>	<ul style="list-style-type: none"> <li>▪ Therefore, we are of the view that publishing data on a terminal-specific basis is more meaningful and valuable to Port Users and consistent with PoM's stewardship obligations under the Port Lease.</li> <li>▪ We appreciate Patrick's suggestions for further granularity on vessel classes and will consider including this in future provision of this data. As the purpose of the data is to present actual outcomes, at this stage, we are not proposing to include forecast information alongside it, but will consider this further as we engage on the port development inputs discussed above (which include vessel forecasts).</li> <li>▪ We note Patrick's suggestion to include terminal-specific information on actual vessel visits. While we note that this suggestion appears to be somewhat contradictory with Patrick's other comments on terminal-specific information, we will consider this for future publication.</li> </ul>
DP World	<ul style="list-style-type: none"> <li>▪ Utilisation of container capacity at the Port is low – and will become substantially worse, following the Webb Dock extension. Based on volumes handled over 2019 and 2020 (allowing for the unusual trade during COVID), this suggests a capacity utilisation of less than 55%. (p.6) [note: DP World stated that total throughput at PoM was 2.4m TEU in 2020 and by suggesting utilisation was 53% this implies that capacity is 4.5m TEU]</li> <li>▪ DP World strongly rejects the contention (that appears to be made in the TCS consultation document at page 18) that PoM should “target” berth utilisation in the order of 55-65%, to avoid vessel queuing or delays. This is a remarkably low level of berth utilisation and implies that stevedores, shippers and others in the port supply chain should fund port infrastructure that is 35-45% more than required to meet demand. (p.7)</li> </ul>	<ul style="list-style-type: none"> <li>▪ We note that DP World has provided views on capacity and utilisation at the port. As noted above, we will consider this feedback in our future consultation programs, including in relation to the timing of future container capacity.</li> <li>▪ However, for the avoidance of doubt, our view is that the DP World information is not correct, with volumes being too low and the capacity of the port being too high.</li> <li>▪ In relation to volumes, TEU throughput through international container terminals was 2.6m in FY18, 2.7m in FY19, 2.6m in FY20 and 3.0m in FY21. Volumes in FY22 are tracking consistent with FY21 volumes at 3.0m. DP World's figures are not consistent with PoM's information that is based on actual historical data.</li> <li>▪ In relation to capacity, as DP World is aware, PoM has previously had work undertaken to determine current and forecast capacity at each of the ICTs and the Port overall. This included a validation exercise with each of the ICTs to confirm the accuracy of estimates current capacity and appropriateness of the modelling approach for estimating future capacity as conditions evolve. This process included testing a range of sensitivities requested by the ICT operators. Three workshops were held with each ICT operator. This analysis determined that capacity without an extension to Webb Dock East was 3.5 million TEU and after the Webb Dock East Extension was 3.9 million TEU.</li> </ul>



Topic/Stakeholder	Comments from stakeholders	How PoM has had regard to comments
		<ul style="list-style-type: none"> <li>▪ DP World implies that with 35-45% more capacity available, utilisation of 100% of berth time is possible. As set out in the Consultation Paper, maritime research consultancy Drewry has noted that once 65% berth utilisation is exceeded, ship queuing increases significantly and service quality drops. After this point, vessel queuing increases exponentially. DP World’s position is not consistent with the work Drewry has undertaken.</li> </ul>
DP World	<ul style="list-style-type: none"> <li>▪ National and international benchmarking of terminal performance and productivity is already undertaken by various bodies (ACCC, PC, BITRE, World Bank etc.) – PoM should report on how its performance as landlord impacts upon the competitiveness of Melbourne vis other ports (pp.2-3)</li> <li>▪ DP World does not accept or support the proposed development and publication by PoM of its own set of terminal performance benchmarks.</li> <li>▪ The type of benchmarking proposed in the consultation paper directly duplicates the work being undertaken by the PC. Any relevant productivity benchmarking should occur on a national basis and be coordinated by the ACCC and/or BITRE, through its Waterline data. DP World would not consent to any publication of its confidential terminal data in the manner intended.</li> <li>▪ The data proposed by PoM also does not relate to the issue which it says is intended to be identified - i.e. it does not “provide information about the delivery of PoM’s key obligations under its port lease.” DP World agrees that appropriately benchmarking the relative performance of PoM against other Australian and global port operators would provide benefits. To that end, DP World would support publication of data and metrics such as:               <ul style="list-style-type: none"> <li>– benchmarked land rent costs at the Port of Melbourne relative to other major container ports;</li> <li>– port landlord costs (including relevant levies) per TEU benchmarked relative to other ports; and</li> <li>– port landlord rates of return and capital expenditure benchmarked relative to other ports.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ Noting the concerns raised by DP World, before publishing performance data and metrics of the sort identified in the Consultation Paper, we propose to further to engage with stakeholders on identifying and reporting on performance data and metrics they value, how they should be calculated and the approach to publishing any such metrics. We look forward to DP World’s participation in this process.</li> <li>▪ We will also have regard to any findings and/or recommendations coming out of the Productivity Commission’s inquiry and the implications for whether and how PoM should publish data. We also note the State’s interest in expanding their Voluntary Performance Monitoring Framework and will work with them on this.</li> <li>▪ We appreciate DP World’s consideration of the issues and the initial views provided by DP World in relation to the proposed performance data and metrics, how they should be calculated and recommendations on reporting, and will take these into account in future consideration of these matters.</li> <li>▪ Notwithstanding the above, we have considered DP World’s comments and provide responses below.</li> <li>▪ In relation to confidentiality of data, it is not clear which data DP World considers confidential or why. For the avoidance of doubt, PoM is not proposing to collect or publish any of DP World’s data, nor are we seeking DP World’s consent to publish any of PoM’s data. PoM already collects the data outlined in the Consultation Paper internally.</li> <li>▪ We note that DP World considers that the data proposed by PoM does not provide information about the delivery of PoM’s key obligations under its Port Lease, although it is not clear why DP World holds this view. PoM’s view is that the performance data and metrics identified are clearly related to its</li> </ul>

Topic/Stakeholder	Comments from stakeholders	How PoM has had regard to comments
	<ul style="list-style-type: none"> <li>▪ In its detailed submission to the PC, DP World raised extensive concerns with the global benchmarking undertaken by the World Bank (and relied upon by the ACCC). Benchmarking of port performance is a complex exercise and should not be done in an ad-hoc fashion, by individual port operators, to cater to the preferences of shipping lines. (p.16)</li> <li>▪ DP World considers that data on port costs and relative capacity utilisation is highly relevant to the Port Lease obligations and Pricing Order and should be further developed. (p.20)</li> </ul>	<p>stewardship obligations, for the reasons set out in section 2.1 of the Consultation Paper.</p> <ul style="list-style-type: none"> <li>▪ PoM’s costs, TEU throughput, rate of return and capital expenditure are all publicly available.</li> <li>▪ With regard to DP World’s support for benchmarking land rent costs, we would welcome further discussions with DP World about publishing rents, although we note that:               <ul style="list-style-type: none"> <li>– The ACCC already reports on relative land rents on an annual basis</li> <li>– Land rents are not part of prescribed services under the Pricing Order or Tariff Compliance Statement and are typically confidential.</li> <li>– As DP World is aware, DP World’s rents were agreed to between DP World and the Government owned and operated PoMC prior to the Port Lease Transaction. PoM has not negotiated any rental agreements with DP World.</li> </ul> </li> <li>▪ We agree with DP World that port performance benchmarking can be complex, but we do not agree that it should not be done by individual port operators (and we note that many ports report on their performance). Nor do we agree that it is inappropriate for PoM to consider to the preferences of shipping lines, who are Port Users, when considering port performance.</li> <li>▪ In relation to data on port costs and capacity utilisation, we note that detailed port cost data is already available in our annual Tariff Compliance Statements, which are publicly available. We will continue to work with stakeholders to develop appropriate data on capacity utilisation.</li> </ul>
MUA	<ul style="list-style-type: none"> <li>▪ MUA strongly suggests that PoM await the PC Draft Report that the MUA presumes will provide a framework of performance measures to determine port performance and benchmarking Australian ports internationally before settling on what metrics it may decide to develop and publish. (p.6)</li> <li>▪ MUA notes with regard to terminal specific data:               <ul style="list-style-type: none"> <li>– The publicly available data does not permit an analysis or comparison of intra-port performance i.e. specific container terminal operator performance</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ PoM notes the MUA’s comments on coordinating with any measures recommended by the PC, and we will ensure we have regard to any findings and/or recommendations coming out of the Productivity Commission’s inquiry and the implications for whether and how PoM should publish data.</li> <li>▪ PoM agrees with the MUA that terminal specific data is more useful for comparisons. For the avoidance of doubt:               <ul style="list-style-type: none"> <li>– We are not seeking to publish detailed information on matters like labour rates</li> <li>– We are not seeking the stevedores’ consent to publish data that we collect and maintain internally.</li> </ul> </li> </ul>

Topic/Stakeholder	Comments from stakeholders	How PoM has had regard to comments
	<ul style="list-style-type: none"> <li>– Recommends that the ACCC be tasked with publishing a range of more detailed, terminal specific data (e.g. crane rates, investment, labour rate, ship rates, etc.)</li> <li>▪ If the terminal operators consented to publication of the Dock (terminal operator) level data, then we would support publication to that level of disaggregation. However, the MUA acknowledged the comment of the terminal operators that express concern about publishing data without context</li> <li>▪ The MUA agrees with the metrics proposed in the Consultation Paper and identifies another seven that it considers should be included               <ul style="list-style-type: none"> <li>– crane rate</li> <li>– elapsed labour rate</li> <li>– ship rate</li> <li>– Proportion of ships waiting at anchorage for more than 2 hours</li> <li>– Average lifts per hour of container terminal operations</li> <li>– Quay crane density</li> <li>– Cost of quay crane operations per elapsed labour hour</li> </ul> </li> <li>▪ The MUA lists 19 variables that it considers are useful for providing context when reporting data, including vessel characteristics, automation in terminals, the level of skill of the workforce, etc.</li> <li>▪ The MUA also identifies a range of container port characteristics that should be identified to ensure accurate comparative analysis between ports.</li> <li>▪ The MUA also identifies a range of performance standards that it considers PoM should set for shipping lines, such as periods of notice for larger vessels. (pp.9-11)</li> </ul>	<ul style="list-style-type: none"> <li>▪ We note the contextual matters identified by the MUA, and will consider these as part of our information gathering, but would clarify that many of these variables are under the control of the stevedores, whereas our consideration of contextual information was more targeted towards identifying issues that are outside the control of stevedores or other Port Users to explain the results. We also note that much of this data may not be readily available.</li> <li>▪ PoM will investigate the shipping line performance standards suggested by the MUA, although we note that in some instances they may cover issues that currently sit with the Harbour Master (e.g. periods of notice for larger vessels) or stevedores (e.g. booking cancellations, scheduling).</li> </ul>
VICT	<ul style="list-style-type: none"> <li>▪ VICT submitted that there are sufficient reports within the market (BITRE, Department of Transport, Shipping Australia) and a further performance mechanism will not be of benefit.</li> <li>▪ However, if this performance mechanism is to be reported, VICT suggests:</li> </ul>	<ul style="list-style-type: none"> <li>▪ Noting the concerns raised by VICT, before publishing performance data and metrics of the sort identified in the Consultation Paper, we propose to continue to engage with stakeholders on identifying and reporting on performance data and metrics they value, how they should be calculated and the approach to publishing any such metrics. We look forward to VICT’s participation in this process.</li> </ul>

Topic/Stakeholder	Comments from stakeholders	How PoM has had regard to comments
	<ul style="list-style-type: none"> <li>– data be reported as a whole and not terminal specific. It should be based on quay-line productivity but also factoring in uncontrollable events like weather, etc.</li> <li>– quarterly reporting, with a very detailed description of context, as there are delays and issues that are out of stevedores' control</li> </ul>	<ul style="list-style-type: none"> <li>▪ We appreciate VICT's consideration of the issues and the initial views provided by VICT in relation to the proposed performance data and metrics, how they should be calculated and recommendations on reporting, and will take these into account in future consideration of these matters.</li> </ul>
<b>Tariffs</b>		
IFCBAA	<ul style="list-style-type: none"> <li>▪ IFCBAA does not believe imports should subsidise exports as there is no evidence the price difference promotes trade growth (p.3)</li> <li>▪ Tariff review with price impact must be communicated early to enable the import trading community for factoring into the landed costs and inform their customers of price increases (p.4)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Following the feedback received during the industry consultation process, PoM's position is not to progress a rebalancing application in 2022, but we would continue to engage with stakeholders about potential tariff reforms for the future.</li> <li>▪ We can confirm that should any tariff changes take place there will be an extensive consultation process and notice period as required under the Pricing Order.</li> </ul>
TMEC	<ul style="list-style-type: none"> <li>▪ TMEC requested that PoM explain what a future "rebalance" or reform of port costs means for Tasmanian exporters and when this may occur (p.1)</li> <li>▪ TMEC queried about when TT Line moves to Geelong: <ul style="list-style-type: none"> <li>– What will be future port costs for Tasmania if this occurs?</li> <li>– Will there be an increase in costs for Tasmanian exporters should freight volumes reduce?</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ Following the feedback received during the industry consultation process, PoM's position is not to progress a rebalancing application in 2022, but we would continue to engage with stakeholders about potential tariff reforms for the future.</li> <li>▪ We are unable to comment on potential costs incurred by Port Users using the Port of Geelong, however in so far as prescribed tariffs for Tasmanian exporters using the Port of Melbourne we would welcome any views from TMEC on tariff reforms.</li> </ul>
ANL	<ul style="list-style-type: none"> <li>▪ ANL encourages PoM to strongly consider reforms that incentivise the use of PoM rail capacity, in addition to the deliverables of the PRTP (additional port rail freight capacity). Capacity will help to drive competition amongst intermodal operators but will not bridge the gap in competitiveness between road and rail. (p.3)</li> <li>▪ PoM rail freight mode share should be included in future consultation. Any information on pricing that will impact vessels is pertinent. (p.3)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Following the feedback received during the industry consultation process, PoM's position is not to progress a rebalancing application in 2022, but we would continue to engage with stakeholders about potential tariff reforms for the future.</li> <li>▪ We welcome ANL's comments on the importance of rail mode share, and will ensure these matters are considered in future engagement on tariffs.</li> </ul>
Patrick	<ul style="list-style-type: none"> <li>▪ In relation to PoM's preliminary positions on Tariff Rebalancing, Patrick submitted that PoM should address the following matters in detail as part of consultation for any future rebalancing application:</li> </ul>	<ul style="list-style-type: none"> <li>▪ Following the feedback received during the industry consultation process, PoM's position is not to progress a rebalancing application in 2022, but we</li> </ul>

Topic/Stakeholder	Comments from stakeholders	How PoM has had regard to comments
	<ul style="list-style-type: none"> <li>– forecast average wharfage charge in real terms with and without rebalancing over the medium term, noting PoM’s forecast of strong growth in large vessels;</li> <li>– cost causality, having regard to the capital plans that underpin the rebalancing application and the setting of the threshold for a ‘large ship’ at 300m LOA and 40m beam;</li> <li>– explanation of how rebalancing supports improved port utilisation by port users who are not driving marginal investment costs, in the absence of volume growth related to the investment.</li> <li>▪ The following information should be provided to stakeholders to allow a proper consideration of prudence and efficiency for capital plans to be included in any further rebalancing application: <ul style="list-style-type: none"> <li>– the proposal should be clear, with evidence that the supporting information is audited;</li> <li>– analysis of the efficiency of the proposed tariff structure: incidence of the additional fees, likely responses of users to price signals, incremental costs;</li> <li>– how the rebalancing of tariffs will affect real prescribed prices by including forecasts of tariffs and quantities of prescribed services over the Pricing Order transition period, incremental revenue and costs, changes in service patterns due to the tariff rebalancing;</li> <li>– prudence and efficiency of the investments on which the rebalancing proposal is predicated;</li> <li>– the impacts of the tariff rebalancing proposal need to be assessed on a whole-of-port basis, and the effects on the efficiency of supply chains also need to be considered (p.20)</li> </ul> </li> <li>▪ Sufficient information should be provided on the efficiency effects of the proposal to enable the ESC to assess it against each of the pricing principles and against the statutory objectives under the Port Management Act 1995 (Vic) (p.25)</li> <li>▪ Patrick also requested that PoM confirm its proposed approach to consultation on prudence and efficiency of any investments forming</li> </ul>	<p>would continue to engage with stakeholders about potential tariff reforms for the future.</p> <ul style="list-style-type: none"> <li>▪ PoM welcome’s Patrick’s feedback on the matters to be addressed in consultation on future rebalancing applications and views on information that Patrick would like to be provided with in any rebalancing application.</li> <li>▪ PoM will have regard to the feedback provided when planning and undertaking future engagement on tariff reform, with the next step in this process expected to involve further consideration of tariff reform options and the development of a stakeholder engagement plan later in 2022. Our initial view is that the matters are generally aligned with the requirements of the Pricing Order and agree that they should be covered in the information provided to stakeholders as part of our engagement on future rebalancing proposals. To the extent that we are not able to address the information requested in any future rebalancing application, we will advise stakeholders why this is the case.</li> <li>▪ Patrick has requested that we clarify our approach to consulting on the prudence and efficiency of projects that are already committed. To the extent that Patrick’s comment relates to the Webb Dock East Berth Extension, as construction on this project has commenced, we do not currently intend to consult further on its prudence and efficiency. However, we note that the prudence and efficiency of this project is under investigation by the ESC under section 49Q of the Port Management Act. Therefore, we will assess the need for any further consultation on this project following the conclusion of the ESC’s investigation.</li> </ul>

Topic/Stakeholder	Comments from stakeholders	How PoM has had regard to comments
	<p>part of any future tariff rebalancing application that are already committed (pp.19,24)</p>	
MUA	<ul style="list-style-type: none"> <li>▪ The MUA notes that section 48 of the PMA addresses the facilitation and promotion of competition. In that context the MUA states that PoM has an obligation to consider port user market stability where those operations involve significant labour costs, when considering its pricing.</li> </ul>	<ul style="list-style-type: none"> <li>▪ We welcome the MUA’s feedback and note that the Pricing Order contains specific provisions around the consistency with s.48 for tariff rebalancing, which must be addressed in any rebalancing application</li> </ul>
VICT	<ul style="list-style-type: none"> <li>▪ VICT suggested that a tariff mechanism be developed to allow the PoM to be able to invest and continue to recover outside of the current restricted framework.</li> <li>▪ In future consultation, PoM should explain the consequences, for example if the Port doesn’t invest the potential impact to the congestion and costs that may arise from that based on economic modelling.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Following the feedback received during the industry consultation process, PoM’s position is not to progress a rebalancing application in 2022, but we would continue to engage with stakeholders about potential tariff reforms for the future.</li> <li>▪ PoM agrees that analysis regarding investments in additional capacity should have regard to the impact of congestion and associated costs should investment not occur</li> <li>▪ For the avoidance of doubt, please note that matters regarding the design of the regulatory framework (such as tariff mechanisms outside the Pricing Order) are matters for the Victorian Government.</li> </ul>
<b>Treatment of deferred depreciation</b>		
IFCBAA	<ul style="list-style-type: none"> <li>▪ Port users and other stakeholders are concerned how the treatment of deferred depreciation would affect them (p.3).</li> <li>▪ Port Users and other stakeholders generally have a preference for a proposed model that minimises price shocks (pursue price stability) in recovering deferred depreciation” (p.3) and that “any proposed approach to recovering deferred appreciation needs to be considered carefully by PoM (p.4).</li> </ul>	<ul style="list-style-type: none"> <li>▪ PoM agrees that the treatment of deferred depreciation affects stakeholders and that the proposed approach needs to be carefully considered.</li> <li>▪ The IFCBAA’s view that port users and other stakeholders prefer a model that minimises price shocks is consistent with the feedback PoM had received to date on stakeholders’ preferences with regard to depreciation recovery.</li> <li>▪ The approach PoM has adopted has been carefully considered and is specifically designed to minimise price volatility.</li> <li>▪ We welcome the IFCBAA’s comments on the approach to recovering deferred depreciation and consider that this supports the use of the tilted annuity approach.</li> <li>▪ Given stakeholders’ concerns about the impacts of deferred depreciation, PoM has provided updated projections of future tariff impacts in this TCS and we will continue to update projections at the commencement of future regulatory periods.</li> </ul>

Topic/Stakeholder	Comments from stakeholders	How PoM has had regard to comments
Patrick	<ul style="list-style-type: none"> <li>▪ Patrick is ... interested in the approach that PoM takes to deferring and ultimately recovering depreciation as it influences overall cost pressures in the system (p.21).</li> <li>▪ It is very difficult to forecast the extent of the price shock with certainty from PoM’s consultation materials. Whilst we acknowledge that PoM has provided additional information on its approach in the 2022 Industry Consultation Paper, it would be helpful if the illustrative profiles could also provide monetary levels for wharfage to give a feel for the likely annual step ups / step downs taking into account cumulative inflation year on year (p.20).</li> </ul>	<ul style="list-style-type: none"> <li>▪ In response to Patrick’s suggestion, we have included illustrative profiles of containerised inward wharfage fees in the TCS. These fees are expressed in nominal terms so that Patrick and other stakeholders can better appreciate the impacts accounting for cumulative inflation.</li> <li>▪ It is important to note that the level of nominal tariffs 16 years in the future is highly dependent on inflation, so these figures should be considered indicative only. However, by providing regular updates of forecasts at the commencement of each regulatory period, we consider that uncertainty regarding future tariff outcomes will be materially reduced.</li> </ul>
DP World	<ul style="list-style-type: none"> <li>▪ DP World considers that the need for an alternative tariff profile to recover ‘banked depreciation’ after the end of the TAL period serves to highlight the impact of PoM’s inefficiently high rate of return.</li> <li>▪ If PoM’s WACC had been set at an efficient level over the last five years, the ESC identifies that the balance of the depreciation account would already have started to be paid down. DP World has modelled that if PoM’s rate of return is appropriately fixed at an efficient level over the next decade, there is unlikely to be any unrecovered, deferred depreciation – and therefore no likely need to depart from straight line depreciation.</li> <li>▪ If PoM continues to recover an inflated WACC, introduction of a tilted depreciation profile after the TAL period merely acts to ‘mask’ a banked over-recovery of returns by PoM – imposing a long term and inefficient burden on the Victorian economy for the remaining term of the lease. (p.20)</li> <li>▪ DP World estimates that if the rate of return was reduced to an efficient level, the balance of the depreciation account would be fully recovered by the early-mid 2030s, avoiding any need for the kind of long term, tilted annuity arrangements being proposed in the TCS consultation (p.4).</li> <li>▪ In these circumstances, DP World does not express a strong view as to whether a front-or back-loaded tilt is appropriate in respect of depreciation after the TAL period; and notes that the debate around a new future tariff profile after the TAL period to try to reduce tariff</li> </ul>	<ul style="list-style-type: none"> <li>▪ We note that DP World’s comments relate to the WACC and the prudence and efficiency of expenditure as opposed to the depreciation approach itself. Without access to DP World’s modelling of the rate of return we are not able to comment on the assertions around unrecovered depreciation, other than to note that this differs from the forecasts we have prepared as part of this TCS.</li> <li>▪ Compliance of the WACC and capital expenditure with the Pricing Order is addressed in detail in our TCS. As set out in the TCS, we consider that the WACC is compliant with the Pricing Order and the forecast expenditure for 2022-23 is prudent and efficient. We also note that: <ul style="list-style-type: none"> <li>– The compliance of the WACC with the Pricing Order has been addressed comprehensively in the Undertaking signed by the ESC Minister.</li> <li>– PoM’s capital expenditure, RAB and depreciation were found to be compliant by the ESC in its 5-year review.</li> </ul> </li> <li>▪ The illustrative projections presented in the consultation paper and the TCS are based on a WACC that is estimated in accordance with the Pricing Order and is consistent with the approaches described in the Undertaking.</li> <li>▪ We would welcome further consultation on these matters with DP World and would be pleased to address any outstanding questions not adequately covered by the TCS. For the avoidance of doubt, it is important to note that matters regarding the design of the regulatory framework (such as fixing the rate of return and changing the approach to regulation) are the responsibility of the Victorian Government.</li> </ul>

Topic/Stakeholder	Comments from stakeholders	How PoM has had regard to comments
	<p>shock only serves to highlight that an inflated WACC is imposing costs on the Victorian logistics supply chain that will be entrenched for decades, unless steps are taken to more directly regulate PoM’s rate of return (p.21).</p>	
<b>Regulatory period</b>		
IFCBAA	<ul style="list-style-type: none"> <li>IFCBAA supports the ESC’s preference for PoM to consider a longer regulatory period. PoM should consider principles of stability, transparency and consistency in choosing the length of future regulatory periods. (p.5)</li> </ul>	<ul style="list-style-type: none"> <li>We welcome the IFCBAA’s views on the regulatory period. We agree that we should consider principles of stability, transparency and consistency in choosing the length of future regulatory periods, and will have regard to these positions in our preparations and consultation for the next TCS submission.</li> </ul>
ANL	<ul style="list-style-type: none"> <li>ANL would like to be consulted on regulatory period as part of regular industry updates and cadence meetings.</li> </ul>	<ul style="list-style-type: none"> <li>We will ensure that stakeholders, including ANL, have an opportunity to participate in consultation on the regulatory period for the next TCS submission.</li> </ul>
DP World	<ul style="list-style-type: none"> <li>DP World would support a longer regulatory period, if this formed part of a more orthodox, ex ante building block model of regulation, overseen by the ESC – in which the rate of return was fixed at an efficient level, and the prudence of capex and opex were appropriately, transparently and independently tested and approved. (p.21)</li> </ul>	<ul style="list-style-type: none"> <li>We welcome DP World’s views on the regulatory period, and will have regard to these positions in our preparations and consultation for the next TCS submission.</li> <li>For the avoidance of doubt, please note that matters regarding the design of the regulatory framework (such as fixing the rate of return and changing the approach to regulation) are matters for the Victorian Government.</li> </ul>
VICT	<ul style="list-style-type: none"> <li>The length of the regulatory period should not hinder investment from PoM and if required should be reviewed in order to ensure the port is not under-recovering.</li> </ul>	<ul style="list-style-type: none"> <li>We welcome VICT’s views on the regulatory period, and will have regard to these positions in our preparations and consultation for the next TCS submission.</li> </ul>
<b>General / Other</b>		
IFCBAA – competitiveness with other ports	<ul style="list-style-type: none"> <li>It is most important for PoM to remain competitive, invest in port capacity and rail connectivity to ensure PoM’s infrastructure can cope with trade growth and bigger vessels, as PoM risks losing business to other Australian ports that invest in these areas. It is the shippers’ and forwarders’ decision as to which port to use when booking containers and decisions are made based on price and port and landside productivity. (p.5)</li> </ul>	<ul style="list-style-type: none"> <li>We welcome the IFCBAA’s views on the importance in the ongoing competitiveness of the port, particularly with regard to catering to trade growth and larger vessels. These matters will form part of our engagement on port development later this year.</li> </ul>
DP World – capital planning	<ul style="list-style-type: none"> <li>The ESC acknowledges that the capital planning process at the Port is non-compliant (p.4)</li> </ul>	<ul style="list-style-type: none"> <li>DP World’s statement concerning the compliance of PoM’s capital planning processes is incorrect. In its final report on the 5-year review, the ESC states:</li> </ul>



Topic/Stakeholder	Comments from stakeholders	How PoM has had regard to comments
	<ul style="list-style-type: none"> <li>▪ In its Compliance Review, the ESC found that non-compliance by PoM in relation to both its rate of return and its approach to capital planning was significant and sustained (p.4)</li> </ul>	<ul style="list-style-type: none"> <li>– “We find that the Port’s approach to capital expenditure, forecasting, planning and management during the review period is compliant” (p.96)</li> <li>– “We agree with FTI Consulting’s finding that the Port’s capital planning processes contribute to prudent and efficient capital expenditure” (p.94)</li> <li>– “FTI Consulting also found the Port’s governance processes to be working effectively and that the Port’s project management framework reflects best practice” (p.95)</li> </ul>
<p>DP World – fourth container terminal</p>	<ul style="list-style-type: none"> <li>▪ PoM has now indicated that it intends to commence a commercial process in relation to the development of a fourth terminal at Webb Dock North. This had originally been seen as unlikely to be required before 2035 and, based on forecast container volume growth, that remains the case. (p.8)</li> </ul>	<ul style="list-style-type: none"> <li>▪ DP World’s statement does not accurately reflect PoM’s position or statements made by PoM:               <ul style="list-style-type: none"> <li>– PoM has indicated that the process for identifying a new terminal operator will be a market-driven, commercial process. However, PoM has not indicated that it is commencing this process</li> <li>– PoM has not indicated that Webb Dock North would be “unlikely to be required before 2035”. The PDS identifies “Developing a Webb Dock North container terminal” as one of nine key projects to be delivered by 2035. (PDS, pp.51-52)</li> </ul> </li> <li>▪ We welcome DP World’s views on the timing of requirement for a fourth container terminal. However, we also note that PoM considers capacity planning from a whole of port perspective to ensure the Victorian economy is not constrained by the capacity at the port. There are many factors that need to be considered with respect to delivery timing including for example the long lead times associated with delivering infrastructure of this nature. As set out in the Consultation Paper, we will use feedback from stakeholders to design our engagement strategy and approach to port development in the coming months, with the expectation that we will commence engagement with port users and other stakeholders in mid-late 2022. (Consultation Paper, pp.9-13)</li> </ul>