

# Public engagement summary: 2021 inquiry into Port of Melbourne compliance with the pricing order

We are conducting our first inquiry into the Port of Melbourne's compliance with the pricing order<sup>1</sup> during the review period 1 July 2016 to 30 June 2021.

## Project background

We are required by the Port Management Act 1995 (Vic) to conduct an inquiry into the port's compliance with the [pricing order](#) every five years. This inquiry will consider if there was any non-compliance, and if so, whether that was, in our view, non-compliance in a significant and sustained manner.<sup>2</sup>

A number of persons request or receive prescribed services<sup>3</sup> at the port of Melbourne. These persons are defined in the pricing order as Port Users.<sup>4</sup> They include international and domestic shipping lines carrying containerised and general cargo to and from Melbourne through Port Phillip Bay, stevedores that access and use wharf infrastructure to handle containerised and other cargo for shipping lines and transport providers, transport providers, cargo owners and freight forwarders.

The Port charges Port Users tariffs for prescribed services it provides as set out in its Reference Tariff Schedule.<sup>5</sup> These tariffs are set by the Port in accordance with the pricing order which sets out the requirements for the Port when setting prices for prescribed services, such as:

- the approach and principles to be applied to calculate and set prices
- the extent prices can change between regulatory years
- when the Port needs to apply to us for new or variations to existing tariffs or to discontinue existing tariffs.

The Port may also enter into contracts with Port Users for the supply of prescribed services on terms and conditions that differ from those specified in the Reference Tariff Schedule, but only if certain conditions are met.<sup>6</sup>

---

<sup>1</sup> Made by Order in Council under section 49A of the *Port Management Act 1995 (Vic)*, published in Victorian Government Gazette No. S 201 Friday, 24 June 2016, and amended by Order in Council published in Victorian Government Gazette No. S 247 Wednesday, 20 May 2020

<sup>2</sup> *Port Management Act 1995 (Vic)*, s 49I(1).

<sup>3</sup> Defined in clause 14 of the pricing order as being having the same meaning as in the *Port Management Act 1995 (Vic)*. 'Prescribed services' are defined in section 49(1)(a)(c) of the *Port Management Act 1995 (Vic)*.

<sup>4</sup> Pricing order, clause 14.

<sup>5</sup> To be prepared and published by the Port of Melbourne in accordance with clauses 6, 7 and 8 of the pricing order.

<sup>6</sup> See clause 6.2 of the pricing order.

We ran a public engagement process to seek the views of interested stakeholders. Engaging during the coronavirus pandemic meant adapting our approach to ensure stakeholders could still provide feedback. To achieve this, we:

- promoted discussion in our virtual public forum event
- invited submissions to our inquiry
- held one-on-one stakeholder engagement sessions.

Our final report to the Assistant Treasurer will take account of matters raised by stakeholders and all relevant provisions under the pricing order, the Port Management Act 1995 (Vic) and the Essential Services Commission Act 2001 (Vic). We will also consider relevant advice we have received from expert consultants where appropriate.

## How we engaged



### Key dates

- 10 June 2021: inquiry started and submissions opened
- 5 July to 5 August 2021: one on one information sessions
- 15 July 2021: virtual public forum
- 3 September 2021: submissions closed
- October 2021: confidential draft report to be provided to the Port of Melbourne<sup>7</sup>
- 31 December 2021: final report (public and confidential versions) to be provided to Assistant Treasurer
- January to March 2022: confidential version of final report to be laid before each House of the Parliament and made publicly available.<sup>8</sup>



### Methodology

- We sought feedback and submissions via Engage Victoria.
- We held a virtual public forum on 15 July 2021 to inform interested parties of our inquiry process.
- We conducted one-on-one information sessions from 5 July to 5 August 2021.

<sup>7</sup> Section 49J(1) of the *Port Management Act 1995 (Vic)* obliges the commission to provide a draft of the report to the Port of Melbourne to give it an opportunity to make a written submission on the draft report before the commission prepares its final report on the inquiry.

<sup>8</sup> Section 45(6) of the *Essential Services Commission Act 2001 (Vic)* requires the Minister, after receiving the final report, to cause a copy of the public version of this report to be laid before each House of the Parliament within 7 sitting days of the House. The Minister must, after the public version of the final report has been laid before each House of the Parliament, or if the Parliament is not sitting, within 30 days after receiving this, ensure that a copy is available for public inspection. After the Minister has made the public version of the final report publicly available, the commission must ensure that copies are made publicly available (section 45(7) of the *Essential Services Commission Act 2001 (Vic)*).

These sessions were held on a confidential basis and enabled interested stakeholders to ask questions and raise any matters related to the inquiry.

- We had an online public forum open in Engage Victoria for the duration of the review. This forum allowed interested parties to publicly submit questions to the team for answers within 3-5 business days.
- We invited all stakeholders who made a submission to our inquiry the opportunity to meet with commissioners and present on their submission.



#### **Number of participants**

- 293 visitors to our Engage Victoria consultation page viewed it collectively 650 times between 10 June 2021 to 3 September 2021.
- 44 attendees at our online public forum including:
  - port users and other interested or affected stakeholders
  - Victorian government representatives.



#### **Number of submissions received (written, verbal)**

- 14 written submissions (12 public submissions from the stakeholders listed below, and 2 confidential submissions):
  - ANL Container Line Pty Ltd
  - Butler Freight Services Pty Ltd
  - Freight & Trade Alliance
  - Quantem
  - Maritime Union of Australia
  - Patrick Terminals
  - Port of Melbourne
  - Port of Melbourne Shareholder Group
  - Shipping Australia Limited
  - Two anonymous public submissions
  - Victorian International Container Terminal

# Summary of issues raised by stakeholders

We asked	You said
<p>We invited views on the Port's compliance with the pricing order during the five-year review period from 1 July 2016 to 30 June 2021. Submissions were open for 12 weeks from 10 June to 3 September 2021.</p>	<p>We received 14 submissions from a range of stakeholders which covered topics including:</p> <p><b>The Port's stakeholder engagement</b></p> <ul style="list-style-type: none"> <li>• Three submissions are supportive of the Port's approach to stakeholder engagement. Six submissions are concerned with the Port's approach to stakeholder engagement.</li> </ul>
<p>On Engage Victoria, we asked for general feedback and more specifically:</p> <ul style="list-style-type: none"> <li>• Whether you thought the Port of Melbourne has complied with the pricing order during the review period.</li> <li>• Whether Port of Melbourne charged you prices in accordance with its reference tariff schedule since July 2016.</li> <li>• Whether you thought Port of Melbourne has made prudent and efficient investments in its port infrastructure over the last five years.</li> <li>• What you thought of Port of Melbourne's rate of return on its investments over the last five years.</li> <li>• Whether Port of Melbourne consulted with you in the development of its prices and/or services between July 2016 and June 2021.</li> </ul>	<p><b>Wharfage fees and prices</b></p> <ul style="list-style-type: none"> <li>• A number of submissions raised concerns with future increases to wharfage fees and price shocks.</li> </ul> <p><b>The Port's Weighted Average Cost of Capital (WACC)</b></p> <ul style="list-style-type: none"> <li>• Two submissions outlined concerns with the Port's approach to estimating its WACC. There was one supportive submission.</li> </ul> <p><b>The Port's approach to depreciation</b></p> <ul style="list-style-type: none"> <li>• Five submissions outlined concerns on the Port's deferred depreciation approach and its potential for price shock.</li> </ul> <p><b>Prudence and efficiency of capital expenditure</b></p> <ul style="list-style-type: none"> <li>• A number of submissions were concerned with the prudence and efficiency of capital expenditure on the Webb Dock East Expansion project.</li> </ul> <p><b>Demand forecasting by the Port</b></p> <ul style="list-style-type: none"> <li>• A number of submissions considered the long term demand forecasted by the Port was overstated.</li> </ul> <p>A number of submissions commented on the Webb Dock East Expansion project, and various aspects of the Port's 2021-2022 Tariff Compliance Statement, and whether these are relevant matters that should be considered in this inquiry. The Webb Dock East Expansion project delivery is considered out of scope and will fall within the scope of the next 5 yearly inquiry (Please refer to Queen's Counsel advice published on our inquiry <a href="#">page</a>)</p>

## Our engagement events

### Online public forum

Our virtual public forum was on 15 July 2021 via Zoom. A recording is available to view online at the commission's [YouTube channel](#).



### LinkedIn and Twitter

We posted eight Tweets and five LinkedIn posts to promote the engagement process.






**Essential Services Commission**  
4,127 followers  
2mo

**#HaveYourSay:** We want to hear your thoughts on the Port of Melbourne's compliance with the Victorian Government's pricing order over the past 5 years.

We're welcoming feedback from direct and indirect port users, including Victorian consumers who buy imported goods.

Let us know what you think by 3 September > <https://lnkd.in/gqcxDZF>

**#PortofMelbourne #Port #Victoria #EssentialServices #EngageVictoria**



**Inquiry into Port of Melbourne compliance with the pricing order 2021**  
engage.vic.gov.au

11

Like Comment Share


**Essential Services Commission**  
4,127 followers  
2mo

We want to hear your thoughts on the Port of Melbourne's compliance with the Victorian Government's pricing order over the past 5 years.

We're holding one-on-one information sessions from 6 July – 5 August for organisations and individuals to ask questions and provide evidence of the port's compliance or non-compliance. Register for a two-hour timeslot: [bit.ly/3jqpXcl](https://bit.ly/3jqpXcl)

You can also register for our 15 July virtual public forum to have your say and learn about our inquiry process: [bit.ly/2UcBXDM](https://bit.ly/2UcBXDM)

**Kate Symons, Simon Corden, Sitesh Bhojani, Rebecca Billings, John Hamill**



**Inquiry into Port of Melbourne compliance: information sessions**  
eventbrite.com.au

11

## Engage Victoria

We used Engage Victoria to inform stakeholders about the project and provide a number of opportunities to provide feedback and input. See link to Engage Victoria [consultation page](#).

The screenshot shows the Engage Victoria website interface. At the top, there is a navigation bar with links for Home, About Us, Consultations, Contact us, Sign In, Register, and a search icon. Below the navigation bar, a breadcrumb trail reads 'Home > Inquiry into Port of Melbourne compliance with the pricing order 2021'. The main content area features a large header image of a port with a ship and cranes. The title 'Inquiry into Port of Melbourne compliance with the pricing order 2021' is prominently displayed in green and black text. Below the title, a sub-header identifies the 'Essential Services Commission' and provides a brief description of the inquiry. A 'Follow' button is visible. The page is divided into two columns: 'Overview' and 'Timeline'. The 'Overview' section contains text explaining the purpose of the inquiry and the timeline for completion. The 'Timeline' section lists three key events: 'Inquiry announced' (Thursday, 13 June 2021), 'Consultation opens' (Thursday, 10 June 2021), and 'Virtual public forum' (6 July 2021). A link for 'Download and view new available' is provided at the bottom of the timeline.

Home > Inquiry into Port of Melbourne compliance with the pricing order 2021

Essential Services Commission

### Inquiry into Port of Melbourne compliance with the pricing order 2021

The Essential Services Commission is undertaking its first five-yearly inquiry into the Port of Melbourne's compliance with the Victorian Government's pricing order.

[+ Follow](#)

#### Overview

Every five years, the Essential Services Commission must complete an inquiry into whether the Port of Melbourne has complied with the Victorian Government's pricing order. We must determine whether any non-compliance was significant and sustained. We must complete this inquiry within six months of the end of the period, 1 July 2016 to 30 June 2021 – in this case, by 31 December 2021. Once we have finished our inquiry, we will report our findings to the Assistant Treasurer.

We want to hear your views on the Port of Melbourne's compliance with the pricing over the past five years. This inquiry is relevant to the port's direct and indirect users including Victorian consumers who purchase imported goods. To better understand these matters, you can view the port's tariff compliance statements for the past five years on [our website](#). There you will also find our interim

#### Timeline

- [Inquiry announced](#)  
Thursday, 13 June 2021
- [Consultation opens](#)  
Thursday, 10 June 2021
- [Virtual public forum](#)  
6 July 2021  
[Download and view new available](#)