

Michael Black
Head of Regulation, Port of Melbourne
Level 19, 839 Collins Street
Docklands Victoria 3008 Australia

18 December 2020

Review of customer engagement underpinning the Port of Melbourne Tariff Rebalancing Application

The following letter summarises the findings of Utilities Regulation Advisory's (URA) review of the Port of Melbourne (PoM) stakeholder engagement underpinning its Tariff Rebalancing Application (TRA). This assessment was completed against the International Association for Public Participation (IAP2) Quality Assurance Standard¹ (QAS).

Scope

To support its 2021-22 TRA, PoM developed and implemented a customer engagement program, leveraging the framework outlined in the IAP2 QAS. This QAS was endorsed by the IAP2 Federation in May 2015 and is recognised as the International Standard for Public Participation practice².

To support its TRA, PoM has asked URA to complete an independent review of related customer engagement planning and implementation:

- for consistency with the overall intention of the IAP2 QAS, by considering each of the 'core values'; and
- to determine what was done well and what could be improved.

Our approach

To provide an independent assessment of the consistency of PoM's stakeholder engagement planning and implementation with the IAP2 QAS, we reviewed:

- all engagement planning materials;
- all materials provided to stakeholders during engagement;
- all submissions provided by stakeholders; and
- a draft of the TRA (Consultation Draft dated November 2020).

We then compared work completed against the core values to determine whether PoM's stakeholder engagement reflected the core values identified, the strengths of the work completed and opportunities for improvement.

Evidence that supports our findings

A table of documents that supported our review is provided in Annexure A to this letter.

¹ <https://iap2.org.au/resources/quality-assurance-standard/>

² The standards document describes the important elements of any engagement process and was developed in response to requests for a set of 'standardised principles' to ensure consistency in quality and support those carrying out the process. It also allows any process to be audited against a defined standard for simpler evaluation and quality assurance.

Limitations of our advice

We have completed our review on the basis that information provided by PoM is factual and complete. We have not spoken to stakeholders involved during the engagement process to ascertain their views of the rigour and appropriateness of engagement completed.

While PoM has sought for comment on opportunities to improve engagement, we have not been engaged to 'rate' the quality of engagement completed, to assess against best practice or to determine whether PoM has complied with the requirements of the Essential Services Commission's Statement of Regulatory Approach³, the Pricing Order or the objectives set out in section 48 of the *Port Management Act 1995* (PMA).

Summary Findings

Based on the information provided, URA has formed the following independently determined conclusions:

- PoM has designed and delivered a stakeholder engagement program that is consistent with the overall intention of the IAP2 QAS, by considering and reflecting each of the 'core values'.
- PoM's stakeholder engagement provided all impacted stakeholders an opportunity to review and comment on proposed changes to containerised wharfage fees: through activities that were fit-for-purpose and requested by stakeholders; prior to finalising proposals; utilising accessible information that allowed for appropriate engagement; and demonstrated how feedback has been responded to.
- PoM's stakeholder engagement could be improved by: rebalancing options co-design or surveying stakeholder preferences; more clearly articulating up-front, the elements of its submission that were negotiable and non-negotiable (and hence what level of participation/influence stakeholders could have on its application); providing more detailed supporting information earlier, to improve transparency and the quality of stakeholder feedback; and maintaining documentation of the outcomes of in-person engagement and statistical analysis of stakeholders engaged to demonstrate appropriate representation.

Consistency with the IAP2 QAS and its core values

IAP2's QAS was designed to respond to market requirements for evidence that effective community and stakeholder engagement has been delivered and that it accords with the professional community's perspective of quality. The QAS has adopted the IAP2 'core values' as the principles upon which to define quality throughout the process of community and stakeholder engagement.

The core values define the expectations and aspirations of the public participation process. The extent to which the core values can be adhered to is impacted by the level of influence, and is described by IAP2 as:

1. Public participation is based on the belief that those who are affected by a decision have a right to be involved in the decision-making process.
2. Public participation includes the promise that the public's contribution will influence the decision.
3. Public participation promotes sustainable decisions by recognising and communicating the needs and interests of all participants, including decision makers.
4. Public participation seeks out and facilitates the participation of those potentially affected by or interested in a decision.
5. Public participation seeks input from participants in designing how they participate.
6. Public participation provides participants with information they need to participate in a meaningful way.
7. Public participation communicates to participants how their input affected the decision.

The table overleaf summarises evidence of stakeholder engagement provided by PoM against each of these core values.

³ Essential Services Commission 2020, Statement of Regulatory Approach – version 2.0, April

Table 1. Comparison of PoM's stakeholder engagement against the core values of the IAP2 QAS

Core value	Evidence of alignment
Public participation is based on the belief that those who are affected by a decision have a right to be involved in the decision-making process	<ul style="list-style-type: none"> • PoM clearly established the purpose of engagement, regarding its proposed changes to containerised wharfage tariffs, and prioritised matters that can have a significant impact on Port Users, namely options for the structure and level of the rebalanced tariffs and how changes in these will affect them. • PoM informed stakeholders of the drivers of its decision to pursue a tariff rebalancing application, namely trends in large vessels visiting the port and the implications of this for investments to accommodate these vessels. • PoM invited both directly (shipping lines) and indirectly (cargo owners, stevedores, transport providers) impacted stakeholders to participate. • Engagement was split between groups with similar positions, such that shipping lines, their agents and stevedores were engaged separately to cargo owners (split between Victoria/Melbourne, the Riverina and Tasmania), their agents, freight forwarders and industry groups.
Public participation includes the promise that the public's contribution will influence the decision	<ul style="list-style-type: none"> • PoM documented a series of issues for consultation, and sought responses from all interested stakeholders to related questions, including drivers for facilitating larger vessels, the appropriateness of rebalancing objectives, cost recovery, definition of large vessels, the justification for a larger vessels tariff, impact on trade growth, preferences between cargo-based and vessel-based charges, administrative impacts, customer response to changes, the impact of tariff changes and preferred method for engagement. • PoM has provided access to communications between PoM and its stakeholders, where it articulates the purpose for the engagement activities and how feedback will be used. • Stakeholders were informed that their feedback would be used to inform the level and structure of prescribed tariffs, such that they best meet the requirements of the Pricing Order and promote the objectives of the PMA.
Public participation promotes sustainable decisions by recognising and communicating the needs and interests of all participants, including decision makers	<ul style="list-style-type: none"> • PoM leveraged learnings from recent engagement (i.e. the 2019-20, and 2020-21 Tariff Compliance Statement (TCS)), which included an introduction to tariff rebalancing concepts and a summary of current/future investments to support the big ships strategy. • PoM tailored its methods of engagement to suit the topics it was engaging on and the form of engagement it sought for each topic, using the IPA2 Public Participation Spectrum and a mix of 'consult' (i.e. informing Port Users and stakeholders of the drive for tariff rebalancing, the proposal and its impacts) and 'inform' (i.e. presenting and seeking feedback on options for the structure and level of rebalanced tariffs, tested and clarified feedback provided and sought feedback on compliance evidence).
Public participation seeks out and facilitates the participation of those potentially affected by or interested in a decision	<ul style="list-style-type: none"> • In developing its stakeholder engagement strategy, PoM completed a thorough analysis of all stakeholders either directly or indirectly impacted by the TRA, their relevance and key issues, engagement that had been completed to-date and proposed activities for engagement to support the TRA. • PoM developed and implemented a two-step process for engagement, including: <ul style="list-style-type: none"> ○ PoM conducted 11 forums and meetings over a five-week period with Port Users and other stakeholders identified as being impacted by, or likely to have an interest in, the TRA. During these sessions, PoM set out the drivers for tariff rebalancing, the regulatory requirements and tested tariff rebalancing options

Core value	Evidence of alignment
	<p>prepared by PoM. It also presented the draft rebalancing approach, drawing from feedback provided following the earlier engagement.</p> <ul style="list-style-type: none"> ○ During November and December, a full draft of the TRA and other compliance materials were made publicly available on PoM’s website. Stakeholders were invited to review and respond to these materials. ● PoM identified and invited 980 stakeholders across both phases to participate, of which 200 in aggregate participated. All presentation materials were provided to each identified stakeholder, with four weeks allowed for responses to be received.
<p>Public participation seeks input from participants in designing how they participate</p>	<ul style="list-style-type: none"> ● PoM directly asked stakeholders during engagement, how they want to be engaged to support the TRA. ● An engagement program was designed based on PoM’s knowledge of, and relationships with Port Users and stakeholders, and how they like to be engaged. ● PoM added additional meetings with stakeholders and provided more time for responses, where this was sought.
<p>Public participation provides participants with the information they need to participate in a meaningful way</p>	<ul style="list-style-type: none"> ● Presentations were provided to all invited stakeholders, the first containing an update on trade, the Port Development Strategy (PDS), Big Ships Strategy (BSS) and a tariff rebalancing update, the second including a proposed draft of the tariff rebalancing proposal and how it addresses feedback provided by stakeholders ● Engagement was through several channels and sources, including: direct emails to all identified stakeholders; on-line, virtual forums; one-on-one meetings; presentation materials; public release of supporting information; and contact details made available for direct contact on issues. This allowed participants multiple opportunities to share their views with PoM.
<p>Public participation communicates to participants how their input affected the decision</p>	<ul style="list-style-type: none"> ● POM has detailed the feedback provided through the engagement sessions, including its response to issues including the need for investment, objectives, tariff structure/design (user pays, wharfage fees or channel fees, indicative tariff levels, transaction costs and port user response). ● PoM consulted on an increase of \$10-\$20/TEU for inward containers and a decrease of \$3.77/TEU on outward containers. Stakeholder suggested smaller tariff adjustments are preferred, therefore PoM adopted the an increase of \$10/TEU. ● PoM has used Port User and stakeholder feedback received to date in three key ways: firstly, to choose among the draft rebalancing options and refine its specification of the vessel size threshold; secondly, to record feedback against the relevant pricing principles in the draft TRA; and thirdly to adjust its phase 2 engagement approach. ● PoM validated a ‘user pays’ basis for charging through strong stakeholder support. ● PoM had initially planned to run a second engagement session on its draft rebalancing proposal where participants would be provided with a working paper outlining the proposal and how feedback from the earlier sessions was taken into account. In light of stakeholder feedback about the preferred form of engagement, PoM provided stakeholders with its full consultation draft of its TRA for comment. ● In response to feedback from one stakeholder regarding the quality of consultation material and the ability to respond to the questions asked, PoM released a suite of documents publicly⁴, including its draft application, draft tariff schedule, regulatory model, cost allocation model, efficient costs bounds model and presentations.

⁴ <https://www.portofmelbourne.com/regulatory-information/tariff-rebalancing-proposal/>

On the basis of the above analysis and information presented, PoM has appropriately demonstrated each of the core values of the IAP2 QAS in the development and implementation of its stakeholder engagement supporting its TRA. As such, the stakeholder engagement undertaken by PoM is consistent with the overall intention of the QAS.

Strengths of PoM's stakeholder engagement and opportunities for improvement

Based on our knowledge of good practice and our understanding of the ESC's preferences, we have considered the following six issues:

- Timing - did PoM engage stakeholders at a point in time which allowed them to influence planning and strategies?
- Form - were the engagement activities designed to consider how to effectively engage PoM's customers?
- Content - were the issues of engagement those that are of importance to customers?
- Level of influence - did PoM provide an appropriate level of influence to customers over the issues being engaged on, and how can this be demonstrated through its proposals?
- Information - were customers provided an appropriate level of information that allowed them to effectively engage with PoM?
- Evidence - does PoM have appropriate evidence to support the basis of its engagement strategy, what was presented/discussed at each engagement sessions, what feedback was provided and how it was used?

Timing

PoM engaged stakeholders over a four-month period (September to December), to inform the level and structure of containerised wharfage tariffs, namely options for the structure and level of the rebalanced tariffs. PoM has demonstrated, through the provision of: email communications, presentations, its stakeholder engagement plan, information released on its website and the draft TRA, that engagement was used to inform the development of the proposed approach to rebalancing tariffs and drafting of the TRA.

On this basis, engagement with stakeholders was held at a time that allowed them to influence planning and strategies, reflecting a strength in the engagement completed.

Form

PoM adopted several different means of engagement, including numerous one-on-one meetings, many virtual forums/presentations, direct email/distribution of materials and the public release of the draft tariff rebalancing application and supporting information. Each of these activities was designed to align with either the 'consult' or 'inform' end of the IAP2 Public Participation Spectrum. Recognising the interests and viewpoints may differ, engagement was split between Port Users and other stakeholders.

The form of engagement aligned with the intent for engagement, and the ability for PoM's stakeholder to influence the outcomes of the application. It was fit-for-purpose and reflected feedback from stakeholders regarding how they wanted to be engaged.

Content

PoM gave priority to matters that could have a significant impact on Port Users and engaged on options for the structure and level of the rebalanced tariffs – in other words, 'how to do the rebalancing'. They sought to understand views on rebalancing objectives, large vessels (i.e. definition, drivers, cost recovery and charging options), impacts (on trade growth, administration, customer), stakeholder response and preferred methods for engagement.

An opportunity for improvement is either the co-design of options that meet PoM's objectives for tariff rebalancing, or quantitative survey techniques which allow stakeholders to reveal their preferences regarding tariff rebalancing options.

Level of influence

Stakeholders were informed that their feedback would be used to inform the level and structure of prescribed tariffs such that they best meet the requirements of the Pricing Order and promote the objectives of the PMA. PoM has used Port User and stakeholder feedback to choose among the draft rebalancing options to refine its specification of the vessel size threshold, record feedback against the relevant pricing principles and adjust its phase 2 engagement approach. PoM also demonstrated a willingness to respond to feedback during engagement, where it publicly released a full draft of its TRA and supporting information.

Within its presentations, draft TRA and stakeholder submissions, PoM documented feedback provided by stakeholders, including how it has considered and responded to this feedback

An opportunity for improvement would be to more clearly articulate up-front, what was negotiable and non-negotiable, such that customers could better understand what level of influence they could have over PoM's process, but also what information they would require to support their involvement.

Information

PoM provided copies of all information that was either presented, disseminated or made available to all identified stakeholders. PoM provided materials that were in plain English and contained content of relevance and importance to stakeholders and the TRA. Where stakeholders sought further and more detailed technical information, this was provided publicly (i.e. draft TRA, regulatory model, cost allocation model etc.), which demonstrated accountability and transparency. PoM also provided contact details for all identified stakeholders such that they could engage directly with PoM.

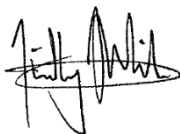
Information provided to stakeholders was appropriate given the purpose of engaging on the structure and rebalancing of tariffs and was made available to all interested stakeholders. An opportunity for improvement is providing earlier access to all relevant materials, as requested through the submissions.

Evidence

To demonstrate the basis for, rigour of and outcomes from, its stakeholder engagement, PoM provided access to its stakeholder engagement plan, a draft of its TRA, presentation materials, email communications, and stakeholder submissions. Through this documentation, PoM has clearly articulated who it sought to engage, what it engaged on, how it engaged and how it used feedback provided.

An opportunity for improvement is better documentation of feedback provided during in person engagement activities, and statistical analysis on stakeholders engaged to demonstrate an appropriate representation of customers and impacted stakeholders.

Yours sincerely,



Executive Director, Utilities Regulation Advisory
1 Thana St, Bentleigh East, VIC, 3165
+61 408 066 960
twhite@uradvisory.com.au
ABN: 30536069424
www.uradvisory.com.au

Annexure A.

Table 2. List of documents reviewed

Subject	Document
Tariff rebalancing application	<ul style="list-style-type: none"> • PoM 2021-22 Rebalancing Application_DRAFT_November 2020 • PoM 2021-22 Rebalancing Application_FINAL DRAFT December 2020
Stakeholder engagement strategy	<ul style="list-style-type: none"> • Tariff Rebalancing - Stakeholder Engagement Plan - Aug 2020
Presentation materials	<ul style="list-style-type: none"> • Business Update and Tariff Rebalancing, Stakeholder Consultations, September 2020 • Tariff Rebalancing consultation draft, November 2020
Email communication	<ul style="list-style-type: none"> • (Email to all identified stakeholders) Port of Melbourne's industry update and Tariff Rebalancing consultation, 29 September 2020
ESC materials	<ul style="list-style-type: none"> • Essential Services Commission 2020, Statement of Regulatory Approach – version 2.0, April • Essential Services Commission Informational requirements for the Port of Melbourne's rebalancing application
Stakeholder submissions	<ul style="list-style-type: none"> • 13 separate and confidentially provided stakeholder submissions during Stage 1 of engagement • 2 separate and confidentially provided stakeholder submissions during Stage 2 of engagement

Inherent Limitations Disclaimer

This Letter of Advice is solely for the purpose set out in the 'Scope' and for the Port of Melbourne's information and is not to be used for any other purpose or distributed to any other party without URA's prior written consent. The services provided in connection with this engagement comprise an advisory engagement, which is not subject to assurance or other standards issued by the Australian Auditing and Assurance Standards Board and, consequently no opinions or conclusions intended to convey assurance have been expressed.

This Letter of Advice has been prepared at the request of the Port of Melbourne to complete an independent review of related customer engagement planning and implementation:

- *for consistency with the overall intention of the IPA2 QAS, by considering each of the 'core values'; and*
- *to determine what was done well and what could be improved.*

No warranty of completeness, accuracy or reliability is given in relation to the statements and representations made by, and the information and documentation provided by, the Port of Melbourne consulted as part of the process. URA have indicated within this Letter of Advice the sources of the information provided. We have not sought to independently verify those sources unless otherwise noted within the Letter of Advice.

URA is under no obligation in any circumstance to update this Letter of Advice in either oral or written form, for events occurring after this Letter has been issued in final form.

Notice to Third Parties

We understand that this Letter of Advice will be provided to the Essential Services Commission of Victoria (ESC) and may be published on the ESC's website. The ESC is not a party to our contract with the Port of Melbourne and, accordingly, it may not place reliance on this report.

Other than our responsibility to the Port of Melbourne, neither URA nor any member or employee of URA undertakes responsibility arising in any way from reliance placed by a third party, including but not limited to the ESCO, on this Letter of Advice. Any reliance placed is that party's sole responsibility.